

SEARCH REQUEST FORM

Scientific and Technical Information Center

Requester's Full Name: Ed Unjam Examiner #: 67001 Date: 7/12
 Art Unit: 2683 Phone Number 305-4385 Serial Number: 09752759
 Mail Box and Bldg/Room Location: 8A05 Results Format Preferred (circle): PAPER DISK E-MAIL

If more than one search is submitted, please prioritize searches in order of need.

Please provide a detailed statement of the search topic, and describe as specifically as possible the subject matter to be searched. Include the elected species or structures, keywords, synonyms, acronyms, and registry numbers, and combine with the concept or utility of the invention. Define any terms that may have a special meaning. Give examples or relevant citations, authors, etc, if known. Please attach a copy of the cover sheet, pertinent claims, and abstract.

Title of Invention: _____

Inventors (please provide full names): _____

Earliest Priority Filing Date: _____

**For Sequence Searches Only* Please include all pertinent information (parent, child, divisional, or issued patent numbers) along with the appropriate serial number.*

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Type of Search

Vendors and cost where applicable

Searcher: <u>N. Campbell</u>	NA Sequence (#) _____	STN _____
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Date Searcher Picked Up: <u>7/12</u>	Bibliographic _____	Dr.Link _____
Date Completed: <u>7/12</u>	Litigation <u>X</u>	Lexis/Nexis <u>X</u>
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Clerical Prep Time: _____	Patent Family _____	www/Internet _____
Online Time: <u>5</u>	Other _____	Other (specify) <u>X</u>

Docket as of July 8, 2001 12:59 pm

Web PACER (v2.3)

U.S. District Court
Northern District of Texas (Dallas)
CIVIL DOCKET FOR CASE #: 97-CV-1813
Messagephone Inc v. SVI Systems Inc, et al

Filed: 07/25/97
Assigned to: Senior Judge Barefoot Sanders
Jury demand: Plaintiff
Demand: \$0,000
Nature of Suit: 830
Lead Docket: None
Jurisdiction: Federal Question
Dkt# in other court: None
Cause: 35:271 Patent Infringement

TOM ARNOLD
special master

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v.
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THARALDSON PROPERTY MANAGEMENT
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dba
Holiday Inn Express, a North
Dakota corporation
defendant

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DOCKET PROCEEDINGS

DATE	#	DOCKET ENTRY
7/25/97	1	COMPLAINT filed; Filing Fee \$ 150.00 Receipt # 94719 (15+) (jas) [Entry date 07/28/97]
7/25/97	1	DEMAND for jury trial by plaintiff Messagephone Inc (jas) [Entry date 07/28/97]

7/25/97 -- PRELIMINARY ASSIGNMENT TO Magistrate Judge Jeff Kaplan (jas)
[Entry date 07/28/97]

7/25/97 2 SUMMONS(ES) issued for defendant SVI Systems Inc, defendant
Tharaldson Property (issued-2) (jas) [Entry date 07/28/97]

8/15/97 3 Unopposed MOTION by defendant SVI Systems Inc, defendant
Tharaldson Property to extend time to respond to the
complaint (3) (jas) [Entry date 08/18/97]

8/18/97 4 ORDER granting [3-1] motion to extend time to respond to
the complaint reset answer due for 9/8/97 for Tharaldson
Property, for SVI Systems Inc (signed by Judge Sanders)
Copies to counsel: 8/18/97 Page(s) 1 (jas)

8/18/97 5 RETURN OF SERVICE executed personally as to defendant
Tharaldson Property 7/29/97 Answer due on 8/18/97 for
Tharaldson Property (1) (jas) [Entry date 08/19/97]

8/20/97 6 RETURN OF SERVICE executed personally as to defendant SVI
Systems Inc 8/12/97 Answer due on 9/2/97 for SVI Systems
Inc (2) (jas)

9/8/97 7 ANSWER to Complaint by defendant SVI Systems Inc (Attorney
Patrick F McGowan) (6) (alh) [Entry date 09/09/97]

9/8/97 8 ANSWER to Complaint by defendant Tharaldson Property
(Attorney Patrick F McGowan) (7) (alh) [Entry date 09/09/97]

9/8/97 9 STATUS REPORT ORDER. Joint status report shall be filed
w/in 21 days of the date of this order. See order for
specifics. (signed by Judge Sanders) Copies to counsel:
09.09.97 Page(s): 2 (alh) [Entry date 09/09/97]

9/17/97 10 MOTION by defendant SVI Systems Inc, defendant Tharaldson
Property for H Michael Hartmann, Eley O Thompson, Thomas A
Belush to appear pro hac vice (3) (jas)
[Entry date 09/18/97]

9/17/97 11 ORDER granting [10-1] motion for H Michael Hartmann, Eley
O Thompson, Thomas A Belush to appear pro hac vice (signed
by Judge Sanders) Copies to counsel: 9/18/97 Page(s) 1
(jas) [Entry date 09/18/97]

9/29/97 12 Joint STATUS REPORT by plaintiff Messagephone Inc,
defendant SVI Systems Inc, defendant Tharaldson Property
(15+) (jas) [Entry date 09/30/97]

11/3/97 13 MOTION by defendant SVI Systems Inc, defendant Tharaldson
Property to bifurcate liability and damages and to stay
discovery related to damages (5) (jas) [Entry date 11/04/97]

11/3/97 14 MEMORANDUM by defendant SVI Systems Inc, defendant
Tharaldson Property in support of [13-1] motion to
bifurcate liability and damages and to stay discovery
related to damages (15+) (jas) [Entry date 11/04/97]

11/19/97 15 RESPONSE by plaintiff Messagephone Inc in opposition to
[13-1] motion to bifurcate liability and damages and to
stay discovery related to damages (8) (jas)
[Entry date 11/20/97]

11/24/97 16 Stipulated ORDER for protective order against unauthorized
use or disclosure of confidential information (signed by
Judge Sanders) Copies to counsel: 11/24/97 Page(s) 14 (jas)

12/1/97 17 **VACATED PER ORDER FILED 9/15/98** SCHEDULING ORDER setting
Jury trial set for weeks of 11/2/98, 11/9/98 and 11/16/98 ;

Joining of Parties on 12:00 1/30/98 ; Amending of Pleadings on 12:00 3/16/98 ; Deadline for filing of dispositive motions 12:00 8/3/98 ; Discovery cutoff 12:00 8/3/98 ; Proposed joint pretrial order due 12:00 10/19/98 ; Pretrial materials due on 12:00 10/19/98 (signed by Judge Sanders) Copies to counsel: 12/2/97 Page(s): 4 (jas) [Entry date 12/02/97] [Edit date 09/16/98]

- 12/1/97 17 STATUS REPORT ORDER. Status report due on 12:00 3/16/98 (signed by Judge Sanders) Copies to counsel: 12/2/97 Page(s): 4 (jas) [Entry date 12/02/97]
- 12/4/97 18 REPLY by defendant SVI Systems Inc, defendant Tharaldson Property to response to [13-1] motion to bifurcate liability and damages and to stay discovery related to damages (9) (jas) [Entry date 12/05/97]
- 12/11/97 19 MOTION by plaintiff Messagephone Inc for leave to file surreply in opposition to dfts' motion to bifurcate (9) (jas)
- 12/15/97 20 ORDER granting [19-1] motion for leave to file surreply in opposition to dfts' motion to bifurcate (signed by Judge Sanders) Copies to counsel: 12/15/97 Page(s) 1 (jas)
- 12/15/97 21 SUR-REPLY by plaintiff Messagephone Inc to reply to response to [13-1] motion to bifurcate liability and damages and to stay discovery related to damages (6) (jas)
- 12/31/97 22 ORDER denying [13-1] motion to bifurcate liability and damages and to stay discovery related to damages (signed by Judge Sanders) Copies to counsel: 12/31/97 Page(s) 2 (jas)
- 3/16/98 23 Joint STATUS REPORT by plaintiff Messagephone Inc, defendant SVI Systems Inc, defendant Tharaldson Property (2) (jas) [Entry date 03/17/98]
- 3/16/98 24 MOTION by defendant SVI Systems Inc, defendant Tharaldson Property for leave to amend [8-1] answer, [7-1] answer (15+) (jas) [Entry date 03/17/98]
- 3/17/98 25 ORDER granting [24-1] motion for leave to amend [8-1] answer, [7-1] answer (signed by Judge Sanders) Copies to counsel: 3/18/98 Page(s) 1 (jas) [Entry date 03/18/98]
- 3/17/98 26 AMENDED ANSWER to Complaint by defendant SVI Systems Inc : amends [7-1] answer (7) (jas) [Entry date 03/18/98]
- 3/17/98 27 AMENDED ANSWER to Complaint by defendant Tharaldson Property amends [8-1] answer (8) (jas) [Entry date 03/18/98]
- 3/17/98 28 ORDER the case is referred to Magistrate Kaplan for a settlement conference. Judge Kaplan is requested to report the results of that conference to the Court by 12:00 5/4/98. The case will remain on its current schedule with trial set on the November 1998 docket. (signed by Judge Sanders) Copies to counsel: 3/18/98 Page(s) 1 (jas) [Entry date 03/18/98]
- 3/26/98 29 SEALED DOCUMENT placed in sealed area (jas) [Entry date 03/27/98]
- 3/26/98 30 SEALED DOCUMENT placed in sealed area (jas) [Entry date 03/27/98]
- 3/26/98 31 SEALED DOCUMENT placed in sealed area (jas) [Entry date 03/27/98]
- 3/26/98 32 SEALED DOCUMENT placed in sealed area (jas) [Entry date 03/27/98]

3/30/98 33 Joint STATUS REPORT by plaintiff Messagephone Inc, defendant SVI Systems Inc, defendant Tharaldson Property (3) (jas) [Entry date 03/31/98]

4/7/98 34 ORDER referring case to ADR; Tom Arnold ADR provider; Type of ADR: Mediation Requested by: Court (Signed by Judge Sanders) Copies to counsel: 4/8/98 Page(s): 3 (jas) [Entry date 04/08/98]

4/15/98 35 MOTION by plaintiff Messagephone Inc to extend time to respond to dfts' motion for claim construction and sum jgm of non-infringement (3) (jas) [Entry date 04/16/98]

4/16/98 36 ORDER granting [35-1] motion to extend time to respond to dfts' motion for claim construction and sum jgm of non-infringement, reset deadline to 4/17/98. (signed by Judge Sanders) Copies to counsel: 4/16/98 Page(s) 2 (jas)

4/20/98 37 SEALED DOCUMENT placed in sealed area (jas) [Entry date 04/21/98]

4/20/98 38 MOTION by defendant SVI Systems Inc, defendant Tharaldson Property for claim construction and for summary judgment of non-infringement (2) (jas) [Entry date 04/21/98]

4/20/98 39 Statement of the disputed facts/MEMORANDUM by plaintiff Messagephone Inc in support of its response in opposition to dfts' motion for sum jgm (3) (jas) [Entry date 04/21/98]

4/20/98 40 Statement of the undisputed facts/MEMORANDUM by plaintiff Messagephone Inc in support of its cross-motion for claim instruction and sum jgm of infringement (5) (jas) [Entry date 04/21/98]

4/20/98 41 NOTICE of Filing Issues of Law by plaintiff Messagephone Inc (2) (jas) [Entry date 04/21/98]

4/20/98 42 NOTICE of Disputed Issue of law by plaintiff Messagephone Inc (3) (jas) [Entry date 04/21/98]

4/21/98 43 Unopposed MOTION by plaintiff Messagephone Inc, defendant SVI Systems Inc, defendant Tharaldson Property for appointment of special master (2) (jas) [Entry date 04/22/98] [Edit date 04/22/98]

4/23/98 44 ORDER REFERRING CASE to Tom Arnold as special master for considering the merits of dfts' motion for claim construction and sum jgm of non-infringement. See Order for specifics. (signed by Judge Sanders) Copies to counsel: 4/23/98 Page(s): 2 (jas)

4/23/98 45 Errata Sheet by plaintiff Messagephone Inc (4) (jas)

4/24/98 46 MOTION by plaintiff Messagephone Inc for claim construction and summary judgment of infringement (2) (jas) [Entry date 04/27/98]

5/5/98 47 REPLY by defendant SVI Systems Inc, defendant Tharaldson Property to response to [38-1] motion for claim construction and for summary judgment of non-infringement and dfts' opposition to pla's cross-motion for sum jgm of infringement (13) (jas) [Entry date 05/06/98]

5/20/98 48 SEALED DOCUMENT placed in sealed area (jas) [Entry date 05/21/98]

5/26/98 49 Unopposed MOTION by plaintiff Messagephone Inc, defendant SVI Systems Inc, defendant Tharaldson Property for

appointment of special master (2) (jas)
[Entry date 05/27/98]

- 5/27/98 50 ORDER granting [49-1] motion for appointment of special master; this case is hereby referred to Special Master Tom Arnold for considering the merits of pla's Motion for Claim Construction and Cross-Motion for summary judgment of Infringement. (signed by Judge Sanders) Copies to counsel: 5/27/98 Page(s) 1 (jas)
- 6/1/98 51 Designation of Experts by plaintiff Messagephone Inc (15+) (jas) [Entry date 06/02/98]
- 6/16/98 52 MOTION by plaintiff Messagephone Inc to continue and motion to compel (15+) (jas) [Entry date 06/17/98]
- 6/17/98 53 MOTION by defendant SVI Systems Inc, defendant Tharaldson Property concerning MPI's failure to comply with the Court's Order of 12/1/97 (3) (jas) [Entry date 06/18/98]
- 6/17/98 54 MEMORANDUM by defendant SVI Systems Inc, defendant Tharaldson Property in support of [53-1] motion concerning MPI's failure to comply with the Court's Order of 12/1/97 (15+) (jas) [Entry date 06/18/98]
- 6/17/98 55 ORDER OF REFERENCE: [52-1] motion to continue and motion to compel referred to Magistrate Judge Jeff Kaplan (Signed by Judge Sanders) Copies to counsel: 6/18/98 Page(s): 1 (jas) [Entry date 06/18/98]
- 6/17/98 56 ORDER OF REFERENCE: [52-1] motion to continue and motion to compel referred to Magistrate Judge Jeff Kaplan (Signed by Judge Sanders) Copies to counsel: 6/18/98 Page(s): 1 (jas) [Entry date 06/18/98]
- 6/19/98 57 STATUS REPORT ORDER. Counsel shall meet face-to-face by 6/26/98 and file a joint Status report due on 6/30/98. A hearing will be scheduled if this dispute has not been fully resolved. (signed by Magistrate Kaplan) Copies to counsel: 6/22/98 Page(s): 3 (jas) [Entry date 06/22/98]
- 6/24/98 58 Supplemental MOTION -supplemental-to continue and motion to compel by plaintiff Messagephone Inc referring to [52-1] motion to continue and motion to compel (15+) (jas) [Entry date 06/25/98]
- 6/30/98 59 Joint STATUS REPORT by plaintiff Messagephone Inc, defendant SVI Systems Inc, defendant Tharaldson Property (2) (jas) [Entry date 07/01/98]
- 7/1/98 60 ORDER denying as moot [58-1] supplemental motion to continue and motion to compel, denying as moot [53-1] motion concerning MPI's failure to comply with the Court's Order of 12/1/97, denying as moot [52-1] motion to continue and motion to compel reset discovery due for 9/18/98 See Order for additional deadlines. (signed by Magistrate Kaplan) Copies to counsel: 7/2/98 Page(s) 3 (jas) [Entry date 07/02/98]
- 8/7/98 61 SUR-REPLY/supplemental response by plaintiff Messagephone Inc to reply to response to [38-1] motion for claim construction and for summary judgment of non-infringement (USC) (djd) [Entry date 08/10/98]
- 8/7/98 61 SUPPLEMENTAL CROSS MOTION for summary judgment/for infringement--supplemental by plaintiff Messagephone Inc referring to [46-1] motion for claim construction and summary judgment of infringement (USC) (djd) [Entry date 08/10/98]

8/19/98 62 MOTION by defendant SVI Systems Inc, defendant Tharaldson Property for protective order to prohibit contentions deposition (4) (jas) [Entry date 08/20/98]

8/19/98 63 MEMORANDUM by defendant SVI Systems Inc, defendant Tharaldson Property in support of [62-1] motion for protective order to prohibit contentions deposition (15+) (jas) [Entry date 08/20/98]

8/19/98 64 ORDER OF REFERENCE: [62-1] motion for protective order to prohibit contentions deposition referred to Magistrate Judge Jeff Kaplan (Signed by Judge Sanders) Copies to counsel: 8/20/98 Page(s): 1 (jas) [Entry date 08/20/98]

8/24/98 65 ORDER setting hearing: Motion hearing set for 10:00 9/4/98 for [62-1] motion for protective order to prohibit contentions deposition, Response to motion [62-1] motion for protective order to prohibit contentions deposition due by 9/1/98 (signed by Magistrate Kaplan) Copies to counsel: 8/24/98 Page(s): 2 (jas)

8/27/98 66 MOTION by defendant SVI Systems Inc, defendant Tharaldson Property to compel production of improperly withheld documents (4) (cxj) [Entry date 08/28/98]

8/27/98 67 MEMORANDUM by defendant SVI Systems Inc, defendant Tharaldson Property in support of [66-1] motion to compel production of improperly withheld documents (15+) (cxj) [Entry date 08/28/98]

8/28/98 68 ORDER OF REFERENCE: [66-1] motion to compel production of improperly withheld documents referred to Magistrate Judge Jeff Kaplan (Signed by Judge Sanders) Copies to counsel: 8/31/98 Page(s): 1 (jas) [Entry date 08/31/98]

8/31/98 69 ORDER setting hearing: Motion hearing set for 9/4/98 for [66-1] motion to compel production of improperly withheld documents (signed by Magistrate Kaplan) Copies to counsel: 9/1/98 Page(s): 1 (jas) [Entry date 09/01/98]

9/1/98 70 RESPONSE by plaintiff Messagephone Inc to [62-1] motion for protective order to prohibit contentions deposition (15+) (jas) [Entry date 09/02/98]

9/4/98 -- Motion hearing re: [62-1] motion for protective order to prohibit contentions deposition Motion hearing held before Magistrate Kaplan (jas)

9/4/98 71 Minute order: Motion hearing Held before Magistrate Judge Jeff Kaplan re: mtn for protective order Court Reporter: electronic; Order due 9/10/98 (3) (jas)

9/10/98 72 ORDER granting in part, denying in part [62-1] motion for protective order to prohibit contentions deposition (Signed by Magistrate Kaplan) Copies to counsel: 9/10/98 Page(s) 2 (jas)

9/11/98 73 MOTION by defendant SVI Systems Inc, defendant Tharaldson Property to extend time/to modify scheduling order (6) (jas) [Entry date 09/14/98]

9/11/98 74 ORDER Response to motion reset to 9/25/98 for [66-1] motion to compel production of improperly withheld documents, Reply to Response to Motion reset to 10/5/98 for [66-1] motion to compel production of improperly withheld documents (signed by Magistrate Kaplan) Copies to counsel: 9/14/98 Page(s) 2 (jas) [Entry date 09/14/98]

9/15/98 75 ORDER granting [73-1] motion to extend time/to modify scheduling order vacating [17-1] Scheduling order (signed by Judge Sanders) Copies to counsel: 9/16/98 Page(s) 1 (jas) [Entry date 09/16/98]

9/16/98 76 SCHEDULING ORDER setting Jury trial set for weeks of 4/5/99, 4/12/99 and 4/19/99 ; Joining of Parties on 12:00 10/19/98 ; Amending of Pleadings on 12:00 10/19/98 ; Deadline for filing of dispositive motions 12:00 12/21/98 ; Discovery cutoff 12:00 12/21/98 ; Proposed joint pretrial order due 12:00 3/15/99 ; Pretrial materials due on 12:00 3/15/99 (signed by Judge Sanders) Copies to counsel: 9/16/98 Page(s): 5 (jas)

9/16/98 76 STATUS REPORT ORDER. Joint Status report due on 12:00 11/16/98 (signed by Judge Sanders) Copies to counsel: 9/16/98 Page(s): 5 (jas)

9/25/98 77 RESPONSE by plaintiff Messagephone Inc to [66-1] motion to compel production of improperly withheld documents (14) (jas) [Entry date 09/28/98]

9/30/98 78 MOTION with memorandum in support by plaintiff Messagephone Inc for reconsideration of and to vacate [76-1] Scheduling order (6) (jas) [Entry date 10/01/98]

10/2/98 79 MOTION by plaintiff Messagephone Inc to compel answers to MPI's third set of interrogatories (15+) (jas) [Entry date 10/05/98]

10/5/98 80 REPLY by defendant SVI Systems Inc, defendant Tharaldson Property to response to [66-1] motion to compel production of improperly withheld documents (6) (jas) [Entry date 10/06/98]

10/5/98 81 ORDER OF REFERENCE: [79-1] motion to compel answers to MPI's third set of interrogatories referred to Magistrate Judge Jeff Kaplan (Signed by Judge Sanders) Copies to counsel: 10/6/98 Page(s): 1 (jas) [Entry date 10/06/98]

10/6/98 82 ORDER setting hearing: Motion hearing set for 11:30 10/9/98 for [79-1] motion to compel answers to MPI's third set of interrogatories, Response to motion [79-1] motion to compel answers to MPI's third set of interrogatories set to 10/8/98 at 12:00 (signed by Magistrate Kaplan) Copies to counsel: 10/6/98 Page(s): 2 (jas)

10/7/98 83 RESPONSE by defendant SVI Systems Inc, defendant Tharaldson Property in opposition to [78-1] motion for reconsideration of and to vacate [76-1] Scheduling order (4) (jas) [Entry date 10/08/98]

10/8/98 84 ORDER denying [78-1] motion for reconsideration of and to vacate [76-1] Scheduling order (signed by BSanders) Copies to counsel: 10/09/98 Page(s) 1 (cxj) [Entry date 10/09/98]

10/9/98 -- Motion hearing re: [79-1] motion to compel answers to MPI's third set of interrogatories Motion hearing held before Magistrate Kaplan (jas) [Entry date 10/13/98]

10/9/98 85 Minute order: Motion hearing on Mtn to compel held before Magistrate Judge Jeff Kaplan Court Reporter: electronic; order to follow (3) (jas) [Entry date 10/13/98]

10/14/98 86 ORDER denying [79-1] motion to compel answers to MPI's third set of interrogatories (signed by Magistrate Kaplan) Copies to counsel: 10/14/98 Pages: 1 (jas)

10/19/98 87 Expert report of James Malackowski by plaintiff
Messagephone Inc (15+) (jas)

10/19/98 88 MOTION by defendant SVI Systems Inc, defendant Tharaldson
Property for leave to amend respective pleadings (4) (jas)
[Entry date 10/20/98]

10/20/98 89 ORDER granting [88-1] motion for leave to amend respective
pleadings (signed by Judge Sanders) Copies to counsel:
10/20/98 Page(s) 1 (jas)

10/20/98 90 Second AMENDED ANSWER to Complaint by defendant SVI Systems
Inc : amends [26-1] answer (9) (jas)

10/20/98 91 Second AMENDED ANSWER to Complaint by defendant Tharaldson
Property : amends [27-1] answer (9) (jas)

10/20/98 92 AFFIDAVIT by plaintiff Messagephone Inc Re: [77-1] motion
response (15+) (jas) [Entry date 10/21/98]

10/27/98 93 Joint STATUS REPORT by plaintiff Messagephone Inc,
defendant SVI Systems Inc, defendant Tharaldson Property
(2) (jas) [Entry date 10/28/98]

11/3/98 94 Joint STATUS REPORT by plaintiff Messagephone Inc,
defendant SVI Systems Inc, defendant Tharaldson Property
(15) (jas) [Entry date 11/04/98]

11/5/98 95 Supplemental Joint STATUS REPORT by plaintiff Messagephone
Inc, defendant SVI Systems Inc, defendant Tharaldson
Property (2) (jas)

11/10/98 97 Supplemental MEMORANDUM by defendant SVI Systems Inc,
defendant Tharaldson Property in support of [66-1] motion
to compel production of improperly withheld documents (9)
(jas) [Entry date 11/13/98]

11/12/98 96 MOTION by defendant SVI Systems Inc, defendant Tharaldson
Property to extend time for expert reports (4) (jas)
[Entry date 11/13/98]

11/12/98 98 Report by special master Tom Arnold on Claim Constuction
and Infringement (15+) (jas) [Entry date 11/13/98]

11/13/98 99 ORDER granting in part, denying in part [96-1] motion to
extend time for expert reports (signed by Judge Barefoot
Sanders) Copies to counsel: 11/13/98 Page(s) 1 (lch)

11/13/98 100 ORDER temporarily sealing documents (signed by Judge
Sanders) Copies to counsel: 11/16/98 Page(s) 1 (jas)
[Entry date 11/16/98]

11/13/98 101 SEALED DOCUMENT placed in sealed area (jas)
[Entry date 11/16/98]

11/13/98 102 SEALED DOCUMENT placed in sealed area (jas)
[Entry date 11/16/98]

11/13/98 103 ORDER OF REFERENCE: Pla's mtn file 11/13/98 is referred to
Magistrate Judge Kaplan (Signed by Judge Sanders) Copies
to counsel: 11/16/98 Page(s): 1 (jas) [Entry date 11/16/98]

11/13/98 104 RESPONSE by plaintiff Messagephone Inc to [96-1] motion to
extend time for expert reports (11) (jas)
[Entry date 11/16/98]

11/13/98 105 MOTION with memorandum in support by defendant SVI Systems
Inc, defendant Tharaldson Property to temporarily seal
motion (3) (jas) [Entry date 11/16/98]

11/13/98 106 ORDER the deadline to file objections to the Report of the Special Master on Claim Construction and Infringement, filed and served on the parties 11/12/98 shall be 12:00 11/30/98 (signed by Judge Sanders) Copies to counsel: 11/16/98 Page(s) 1 (jas) [Entry date 11/16/98]

11/16/98 107 Joint STATUS REPORT by plaintiff Messagephone Inc, defendant SVI Systems Inc, defendant Tharaldson Property (2) (jas) [Entry date 11/17/98]

11/17/98 108 ORDER re: dft's mtn to use documents produced in discovery; pla's response to the mtn shall be filed by 12/4/98; dft's may file a reply by 12/18/98. (signed by Magistrate Kaplan) Copies to counsel: 11/17/98 Page(s) 2 (jas)

11/18/98 109 MEMORANDUM OPINION AND ORDER pla shall tender the docs identified in it privilege logs to the Court for an in camera inspection by 11/30/98 re: mtn to compel production of certain documents; see Order for specifics. (signed by Magistrate Kaplan) Copies to counsel: 11/18/98 Page(s): 5 (jas)

11/19/98 110 Designation of Experts by defendant SVI Systems Inc, defendant Tharaldson Property (3) (cxj) [Entry date 11/20/98]

11/20/98 111 CERTIFIED MAIL executed as to Messagephone Inc 11/19/98 [109-1] order (1) (cxj) [Entry date 11/23/98]

11/20/98 112 CERTIFIED MAIL executed as to SVI Systems Inc, Tharaldson Property 11/19/98 [109-1] order (1) (cxj) [Entry date 11/23/98]

11/23/98 113 ORDER referring case to ADR; Maxel B 'Bud' Silverberg ADR provider; Type of ADR: mediation Requested by: court (Signed by Judge Barefoot Sanders) Copies to counsel: 11/23/98 Page(s): 3 (lch)

11/24/98 114 CERTIFIED MAIL executed as to Tom Arnold 11/20/98 [109-1] order (1) (cxj)

11/30/98 115 SEALED DOCUMENT placed in sealed area (jas) [Entry date 12/01/98]

11/30/98 116 Comments to the Special Master's report on claim construction and infringement by plaintiff Messagephone Inc (8) (jas) [Entry date 12/01/98]

11/30/98 117 CERTIFIED MAIL executed as to SVI Systems Inc 11/23/98 [109-1] order (1) (jas) [Entry date 12/01/98]

11/30/98 118 Declaration/AFFIDAVIT by plaintiff Messagephone Inc Re: [77-1] motion response to mtn to compel production of docs (8) (jas) [Entry date 12/01/98]

12/4/98 119 RESPONSE by plaintiff Messagephone Inc to dfts' mtn for production of documents (15+) (jas) [Entry date 12/07/98]

12/8/98 120 MEMORANDUM OPINION AND ORDER granting in part, denying in part [66-1] motion to compel production of improperly withheld documents, see Order for specifics. (signed by Magistrate Kaplan) Copies to counsel: 12/9/98 Page(s): 7 (jas) [Entry date 12/09/98]

12/14/98 121 RESPONSE by defendant SVI Systems Inc, defendant Tharaldson Property in opposition to Messagephone's comments to the Special Master's report on claim construction and infringement (8) (jas) [Entry date 12/15/98]

12/18/98 125 MOTION by defendant SVI Systems Inc, defendant Tharaldson Property to temporarily seal dfts' request for reconsideration of the Court's memorandum opinion and order of 12/8/98 and dfts' reply brief in support of their mtn for production of docs (3) (jas) [Entry date 12/21/98]

12/21/98 122 SEALED DOCUMENT placed in sealed area (jas)

12/21/98 123 SEALED DOCUMENT placed in sealed area (jas)

12/21/98 124 SEALED DOCUMENT placed in sealed area (jas)

12/21/98 126 Agreed MOTION by defendant SVI Systems Inc, defendant Tharaldson Property for order to temporarily seal documents (5) (jas) [Entry date 12/22/98]

12/22/98 127 ORDER OF REFERENCE: Dfts' request for reconsideration of the Court's memorandum opinion and order of 12/8/98 is referred to Magistrate Jeff Kaplan (Signed by Judge Sanders) Copies to counsel: 12/23/98 Page(s): 1 (jas) [Entry date 12/23/98]

12/22/98 128 ORDER setting hearing: Motion hearing on dfts' mtn for production of documents set for 1/8/99 at 11:00 (signed by Magistrate Kaplan) Copies to counsel: 12/23/98 Page(s): 1 (jas) [Entry date 12/23/98]

12/22/98 129 ORDER granting [126-1] motion for order to temporarily seal documents (signed by Judge Sanders) Copies to counsel: 12/23/98 Page(s) 2 (jas) [Entry date 12/23/98]

12/22/98 130 SEALED DOCUMENT placed in sealed area (jas) [Entry date 12/23/98]

12/22/98 131 SEALED DOCUMENT placed in sealed area (jas) [Entry date 12/23/98]

12/22/98 132 SEALED DOCUMENT placed in sealed area (jas) [Entry date 12/23/98]

12/22/98 133 SEALED DOCUMENT placed in sealed area (jas) [Entry date 12/23/98]

12/22/98 134 SEALED DOCUMENT placed in sealed area (jas) [Entry date 12/23/98]

12/22/98 135 SEALED DOCUMENT placed in sealed area (jas) [Entry date 12/23/98]

12/23/98 136 JOINT MOTION for entry of agreed scheduling order by plaintiff Messagephone Inc, defendant SVI Systems Inc, defendant Tharaldson Property (2) (jas) [Entry date 12/24/98]

12/24/98 137 ORDER Response to motion to reconsider portion of memorandum opinion due by 1/6/99 (signed by Magistrate Kaplan) Copies to counsel: 12/28/98 Page(s) 2 (jas) [Entry date 12/28/98]

12/28/98 138 ORDER granting [136-1] joint motion for entry of agreed scheduling order, see order for deadlines (signed by Judge Sanders) Copies to counsel: 12/29/98 Page(s) 1 (jas) [Entry date 12/29/98]

1/5/99 139 MOTION with memorandum in support by plaintiff Messagephone Inc to strike dfts' second and third mtns for sum jgm (5) (jas) [Entry date 01/06/99]

1/6/99 140 MOTION with memorandum in support by plaintiff Messagephone Inc to expedite re: responses to dfts' second and third mtns for sum jgm (4) (jas) [Entry date 01/07/99]

1/6/99 141 Request/MOTION by plaintiff Messagephone Inc for reconsideration of [120-1] order and response to dft's request for reconsideration (15+) (jas) [Entry date 01/07/99]

1/6/99 142 ORDER (Motion termed: [140-1] motion to expedite re: responses to dfts' second and third mtns for sum jgm), granting [139-1] motion to strike dfts' second and third mtns for sum jgm striking mtns for sum jgm filed 12/22/98 as not complying with LR 56 (signed by Judge Sanders) Copies to counsel: 1/7/99 Page(s) 1 (jas) [Entry date 01/07/99]

1/8/99 -- Motion hearing re: [66-1] motion to compel production of improperly withheld documents (jas)

1/8/99 143 Minute order: Motion hearing Held before Magistrate Judge Jeff Kaplan re: dft's mtn to compel Court Reporter: electronic; order to follow (2) (jas)

1/8/99 144 ORDER denying [141-1] motion for reconsideration of [120-1] order and denying dft's mtn for reconsideration (signed by Magistrate Kaplan) Copies to counsel: 1/11/99 Page(s) 4 (jas) [Entry date 01/11/99]

1/13/99 145 MOTION with memorandum in support by defendant SVI Systems Inc, defendant Tharaldson Property for leave to submit/ file mtns for sum jgm (6) (jas) [Entry date 01/14/99]

1/14/99 146 ORDER granting in part, denying in part [145-1] motion for leave to submit/ file mtns for sum jgm; Dft may file one mtn for sum jgm by 12:00 1/18/99; pla may file a response thereto by 12:00 2/8/99; dft may file a reply by 12:00 2/19/99 (signed by Judge Sanders) Copies to counsel: 1/14/99 Page(s) 1 (jas)

1/14/99 147 Agreed/JOINT MOTION to extend time to file joint claim chart by plaintiff Messagephone Inc, defendant SVI Systems Inc, defendant Tharaldson Property (2) (jas)

1/15/99 148 JOINT MOTION to appoint new mediator by plaintiff Messagephone Inc, defendant SVI Systems Inc, defendant Tharaldson Property (2) (jas) [Entry date 01/19/99]

1/15/99 150 ORDER granting [148-1] joint motion to appoint new mediator, appointing V Bryan Medlock, Jr. (signed by Judge Sanders) Copies to counsel: 1/19/99 Page(s) 3 (jas) [Entry date 01/19/99]

1/19/99 149 ORDER granting dfts' Mtn for Production of Documents filed 11/13/98, see order for specifics (signed by Magistrate Kaplan) Copies to counsel: 1/19/99 Page(s) 2 (jas)

1/19/99 151 MOTION by defendant SVI Systems Inc, defendant Tharaldson Property for partial summary judgment (4) (jas) [Entry date 01/20/99]

1/19/99 152 MEMORANDUM by defendant SVI Systems Inc, defendant Tharaldson Property in support of [151-1] motion for partial summary judgment (15+) (jas) [Entry date 01/20/99]

1/19/99 153 Statement of Uncontested Facts by defendant SVI Systems Inc, defendant Tharaldson Property (15+) (USC) (jas) [Entry date 01/20/99]

1/19/99 154 MOTION by plaintiff Messagephone Inc to take judicial notice, to supplement the record and for reconsideration of [149-1] order (15+) (USC) (jas) [Entry date 01/20/99]

1/19/99 155 ORDER granting [147-1] joint motion to extend time to file joint claim chart, extended to 1/22/99 (signed by Judge Sanders) Copies to counsel: 1/20/99 Page(s) 1 (jas) [Entry date 01/20/99]

1/20/99 156 ORDER OF REFERENCE: [154-1] motion to take judicial notice, to supplement the record and for reconsideration of [149-1] order referred to Magistrate Judge Jeff Kaplan (signed by Judge Sanders) Copies to counsel: 1/21/99 Page(s): 1 (jas) [Entry date 01/21/99]

1/21/99 157 Second Agreed/JOINT MOTION to extend time to file joint claim chart by plaintiff Messagephone Inc, defendant SVI Systems Inc, defendant Tharaldson Property (2) (jas) [Entry date 01/22/99]

1/21/99 158 ORDER granting [157-1] joint motion to extend time to file joint claim chart, extended to 12:00 1/29/99 (signed by Judge Sanders) Copies to counsel: 1/22/99 Page(s) 1 (jas) [Entry date 01/22/99]

1/25/99 159 RESPONSE by plaintiff Messagephone Inc in opposition to [144-1] order and application for review (7) (jas) [Entry date 01/26/99]

1/25/99 161 ORDER denying [154-1] motion to take judicial notice, to supplement the record and for reconsideration of [149-1] order (signed by Magistrate Kaplan) Copies to counsel: 1/26/99 Page(s) 2 (jas) [Entry date 01/26/99]

1/26/99 160 Provider letter filed by ADR Provider Maxel B 'Bud' Silverberg re: since another mediator was chosen, he is closing his file in this matter (1) (jas)

1/26/99 162 Alternative Dispute Resolution Summary. Filed by ADR Provider Maxel B 'Bud' Silverberg. Prv Fee: \$ 0 Disposition: Did not use providers services (1) (jas) [Entry date 01/27/99]

1/26/99 163 ORDER Response to motion/application for review of Magistrate Kaplan's 1/11/99 order due by 12:00 2/16/99. Pla may file a response by 12:00 3/1/99 (signed by Judge Sanders) Copies to counsel: 1/27/99 Page(s) 1 (jas) [Entry date 01/27/99]

1/28/99 164 Expedited MOTION with memorandum in support by defendant SVI Systems Inc, defendant Tharaldson Property to obtain MPI's compliance with Judge Kaplan's 12/8/98 order and to strike MPI's objections to that order as untimely (15+) (jas)

1/28/99 165 **VACATED PER ORDER FILED 2/1/99** ORDER OF REFERENCE: [164-1] motion to obtain MPI's compliance with Judge Kaplan's 12/8/98 order and to strike MPI's objections to that order as untimely referred to Magistrate Judge Jeff Kaplan (signed by BSanders) Copies to counsel: 01/29/99 Page(s): 1 (cxj) [Entry date 01/29/99] [Edit date 02/01/99]

1/29/99 166 MOTION with memorandum in support by plaintiff Messagephone Inc to stay (4) (lch)

1/29/99 167 **VACATED PER ORDER FILED 2/1/99** ORDER Response to motion set to 12:00 2/3/99 for [166-1] motion to stay, Reply to Response to Motion set to 12:00 2/5/99 for [166-1] motion to stay (signed by Judge Barefoot Sanders) Copies to

counsel: 1/29/99 Page(s) 1 (lch) [Edit date 02/01/99]

1/29/99 168 Memorandum received from Magistrate Kaplan to Judge Sanders re: pending motions (1) (jas) [Entry date 02/01/99]

1/29/99 169 Proposed Claim Construction by plaintiff Messagephone Inc (17) (jas) [Entry date 02/01/99]

1/29/99 170 RESPONSE by plaintiff Messagephone Inc to [164-1] motion to obtain MPI's compliance with Judge Kaplan's 12/8/98 order and to strike MPI's objections to that order as untimely (15+) (USC) (jas) [Entry date 02/01/99]

1/29/99 171 MOTION with memorandum in support by defendant SVI Systems Inc for a briefing schedule and for Hearing concerning claim construction (15+)(USC) (jas) [Entry date 02/01/99]

2/1/99 172 ORDER OF REFERENCE: [166-1] motion to stay referred to Magistrate Judge Jeff Kaplan (Signed by Judge Sanders) Copies to counsel: 2/1/99 Page(s): 1 (jas)

2/1/99 173 ORDER vacating [165-1] referral/referred order The mttn will be considered by the undersigned Judge. (signed by Judge Sanders) Copies to counsel: 2/1/99 Page(s) 1 (jas)

2/1/99 174 ORDER vacating [167-3] order setting briefing schedule (signed by Judge Sanders) Copies to counsel: 2/1/99 Page(s) 1 (jas)

2/1/99 175 ORDER granting [166-1] motion to stay (signed by Magistrate Kaplan) Copies to counsel: 2/2/99 Page(s) 2 (jas) [Entry date 02/02/99]

2/2/99 176 RESPONSE by plaintiff Messagephone Inc to [171-1] motion for a briefing schedule and for Hearing concerning claim construction (15+) (jas) [Entry date 02/03/99]

2/2/99 177 REPLY by defendant SVI Systems Inc to response to [164-1] motion to obtain MPI's compliance with Judge Kaplan's 12/8/98 order and to strike MPI's objections to that order as untimely (10) (jas) [Entry date 02/03/99]

2/2/99 178 MOTION with memorandum in support by plaintiff Messagephone Inc to stay Magistrate's 1/19/99 order (4) (jas) [Entry date 02/03/99]

2/2/99 179 Objections and Application/MOTION by plaintiff Messagephone Inc for review of Magistrate's 1/19/99 order (15+) (USC) (jas) [Entry date 02/03/99]

2/3/99 180 ORDER the Court is of the opinion the the Magistrate's ruling is not clearly erroneous, contrary to law or an abuse of discretion. Accordingly, the Magistrate's Order should be and it is hereby AFFIRMED (Motion termed: [179-1] motion for review of Magistrate's 1/19/99 order) (signed by Judge Sanders) Copies to counsel: 2/3/99 Page(s) 1 (jas)

2/3/99 181 ORDER OF REFERENCE: [178-1] motion to stay Magistrate's 1/19/99 order referred to Magistrate Judge Jeff Kaplan (Signed by Judge Sanders) Copies to counsel: 2/4/99 Page(s): 1 (jas) [Entry date 02/04/99]

2/3/99 182 ORDER setting hearing: Motion hearing set for 2:30 2/4/99 for [178-1] motion to stay Magistrate's 1/19/99 order (signed by Magistrate Kaplan) Copies to counsel: 2/4/99 Page(s): 1 (jas) [Entry date 02/04/99]

2/4/99 183 ORDER denying as moot [178-1] motion to stay Magistrate's

1/19/99 order (signed by Magistrate Kaplan) Copies to counsel: 2/5/99 Page(s) 1 (jas) [Entry date 02/05/99]

2/8/99 184 RESPONSE by plaintiff Messagephone Inc to [151-1] motion for partial summary judgment (3) (jas) [Entry date 02/09/99]

2/8/99 185 MEMORANDUM by plaintiff Messagephone Inc in support of [184-1] motion response (15) (jas) [Entry date 02/09/99]

2/8/99 186 Objections/MOTION by plaintiff Messagephone Inc to strike portions of the Statement of Uncontested Facts (11) (jas) [Entry date 02/09/99]

2/8/99 187 Statement of Facts/RESPONSE by plaintiff Messagephone Inc in opposition to [151-1] motion for partial summary judgment (15+) (USC) (jas) [Entry date 02/09/99]

2/12/99 188 MOTION with memorandum in support by plaintiff Messagephone Inc to compel attendance at mediation or, in the alternative to stay mediation (11) (jas) [Entry date 02/16/99]

2/16/99 189 MOTION by plaintiff Messagephone Inc to compel the depositions of Messrs Norcott and Behnke (15+) (jas) [Entry date 02/17/99]

2/16/99 190 RESPONSE by defendant SVI Systems Inc in opposition to [159-1] opposition response to application for review of Magistrate Kaplan's 1/11/99 order (15+) (jas) [Entry date 02/17/99]

2/16/99 191 ORDER OF REFERENCE: [188-1] motion to compel attendance at mediation or, in the alternative to stay mediation referred to Magistrate Judge Jeff Kaplan (Signed by Judge Sanders) Copies to counsel: 2/17/99 Page(s): 1 (jas) [Entry date 02/17/99]

2/16/99 192 ORDER OF REFERENCE: [189-1] motion to compel the depositions of Messrs Norcott and Behnke referred to Magistrate Judge Jeff Kaplan (Signed by Judge Sanders) Copies to counsel: 2/17/99 Page(s): 1 (jas) [Entry date 02/17/99]

2/17/99 193 REPLY by defendant SVI Systems Inc to response to [171-1] motion for a briefing schedule and for Hearing concerning claim construction (6) (jas) [Entry date 02/18/99]

2/18/99 195 ORDER granting [189-1] motion to compel the depositions of Messrs Norcott and Behnke, SVI Systems, Inc shall produce Norcott for deposition 3/4/99 and Behnke on 3/15/99 (signed by Magistrate Kaplan) Copies to counsel: 2/19/99 Page(s) 2 (jas) [Entry date 02/19/99]

2/18/99 196 ORDER granting [188-1] motion to compel attendance at mediation or, in the alternative to stay mediation (signed by Magistrate Kaplan) Copies to counsel: 2/19/99 Page(s) 2 (jas) [Entry date 02/19/99]

2/19/99 194 MOTION by defendant SVI Systems Inc, defendant Tharaldson Property to extend time for filing reply brief (4) (jas) [Edit date 02/19/99]

2/19/99 197 REPLY by defendant SVI Systems Inc, defendant Tharaldson Property to response to [151-1] motion for partial summary judgment (11) (jas) [Entry date 02/22/99]

2/19/99 198 Opposition/RESPONSE by defendant SVI Systems Inc, defendant Tharaldson Property in opposition to [186-1] motion to strike portions of the Statement of Uncontested Facts (15+)

(USC) (jas) [Entry date 02/22/99]

- 2/19/99 199 Correction to Statement in SVI's Opposition to MPI's objections and mtn to strike by defendant SVI Systems Inc, defendant Tharaldson Property (3) (jas) [Entry date 02/22/99]
- 2/22/99 200 ORDER denying as moot [194-1] motion to extend time for filing reply brief (signed by Judge Sanders) Copies to counsel: 2/23/99 Page(s) 1 (jas) [Entry date 02/23/99]
- 2/23/99 201 ORDER vacating the status conference set for 11:30 2/24/99, pending further Order (signed by Judge Sanders) Copies to counsel: 2/24/99 Page(s) 1 (jas) [Entry date 02/24/99]
- 2/25/99 202 ORDER the parties are directed to present oral argument at 11:00 3/9/99 as to whether the Court should adopt, modify, reject or recommit the Report of Special Master as to Markman claim construction issues. (signed by Judge Sanders) Copies to counsel: 2/25/99 Page(s) 1 (jas)
- 2/25/99 203 Rebuttal Expert Report of Andrew J Dillon by plaintiff Messagephone Inc (15+/USC) (cxj) [Entry date 02/26/99]
- 3/1/99 204 Reply to SVI's opposition/RESPONSE by plaintiff Messagephone Inc in opposition to [159-1] opposition response (6) (jrb) [Entry date 03/02/99]
- 3/1/99 205 MOTION by defendant SVI Systems Inc, defendant Tharaldson Property for Wesley O Mueller, Thomas L Holt to appear pro hac vice (3) (jrb) [Entry date 03/02/99]
- 3/1/99 206 ORDER granting in part, denying in part [164-1] motion to obtain MPI's compliance with Judge Kaplan's 12/8/98 order and to strike MPI's objections to that order as untimely; the magistrate's Order should be and it is hereby Affirmed. Accordingly, dfts expedited motion to obtain MPI's compliance with Judge Kaplan's 12/8/98 order is Granted in part and plaintiff is directed to immediately comply with the order (signed by BSanders) Copies to counsel: 03/02/99 Page(s) 2 (cxj) [Entry date 03/02/99]
- 3/2/99 207 UNOPPOSED MOTION by plaintiff Messagephone Inc for leave to file surreply in opposition to dfts' motion for summary judgment (9) (cxj) [Entry date 03/03/99]
- 3/2/99 208 ORDER granting [205-1] motion for Wesley O Mueller, Thomas L Holt to appear pro hac vice (signed by BSanders) Copies to counsel: 03/03/99 Page(s) 1 (cxj) [Entry date 03/03/99]
- 3/3/99 209 ORDER granting [207-1] motion for leave to file surreply in opposition to dfts' motion for summary judgment (signed by Judge Sanders) Copies to counsel: 03.03.99 Page(s) 1 (alh)
- 3/4/99 210 SUR-REPLY by plaintiff Messagephone Inc to reply to response to [151-1] motion for partial summary judgment (15+) (jrb) [Entry date 03/05/99]
- 3/8/99 211 Unopposed MOTION by defendant SVI Systems Inc, defendant Tharaldson Property for leave to take additional discovery (16) (jas) [Entry date 03/09/99]
- 3/8/99 212 NOTICE of Patents pursuant to 35 USC 282 by defendant SVI Systems Inc, defendant Tharaldson Property (15) (jas) [Entry date 03/09/99]

3/9/99 213 Minute order: Oral argument re: adoption of the Special Masters Report filed 11/12/98 Held before Senior Judge Barefoot Sanders Court Reporter: Janet Wright; order to follow (1) (jas) [Entry date 03/10/99]

3/9/99 214 ORDER granting [211-1] motion for leave to take additional discovery; to serve notice and take depositions of Joel Pugh and Andrew Dillon, and a 30(b)(6) deposition of MessagePhone, Inc. (signed by Judge Sanders) Copies to counsel: 3/10/99 Page(s) 1 (jas) [Entry date 03/10/99]

3/11/99 215 ORDER denying [151-1] motion for partial summary judgment, denying [61-1] supplemental motion for summary judgment/for infringement--supplemental, denying [46-1] motion for claim construction and summary judgment of infringement, denying as moot [171-1] motion for a briefing schedule and for Hearing concerning claim construction, denying as moot [186-1] motion to strike portions of the Statement of Uncontested Facts (signed by Judge Sanders) Copies to counsel: 3/11/99 Page(s) 7 (jas)

3/11/99 216 STATUS REPORT ORDER. Joint Status report due on 12:00 3/29/99 setting forth the status of mediation (signed by BSanders) Copies to counsel: 03/12/99 Page(s): (cxj) [Entry date 03/12/99]

3/12/99 217 ORDER vacating the April 1999 trial setting, reset joint pretrial order due for 12:00 4/12/99, reset scheduling order deadlines: Pretrial materials due 12:00 4/19/99 (signed by Judge Sanders) Copies to counsel: 3/15/99 Page(s) 2 (jas) [Entry date 03/15/99]

3/19/99 218 ORDER set Jury trial for weeks of 5/3/99, 5/10/99 and 5/17/99 (signed by Judge Sanders) Copies to counsel: 3/19/99 Page(s) 1 (jas)

3/19/99 219 Request/MOTION by defendant SVI Systems Inc, defendant Tharaldson Property for partial reconsideration of [215-1] order (15+) (jas) [Entry date 03/22/99]

3/29/99 220 STATUS REPORT re: Mediation by plaintiff Messagephone Inc, defendant SVI Systems Inc, defendant Tharaldson Property (2) (jas) [Entry date 03/30/99]

3/30/99 221 RESPONSE by plaintiff Messagephone Inc to [219-1] motion for partial reconsideration of [215-1] order (15+) (USC) (jas) [Entry date 03/31/99]

3/31/99 222 ORDER denying [219-1] motion for partial reconsideration of [215-1] order (signed by Judge Sanders) Copies to counsel: 3/31/99 Page(s) 1 (jas)

4/1/99 223 Provider letter filed by ADR Provider V Brian Medlock Jr re: mediation held 3/30/99, settlement not reached (1) (jas)

4/5/99 224 SUPPLEMENTAL Notice Pursuant to 35 USC 282 by defendant SVI Systems Inc, defendant Tharaldson Property (3) (jas) [Entry date 04/06/99]

4/6/99 225 TRANSCRIPT filed Court Reporter: Janet Wright Date(s): 3/9/99 Volume(s): I Type of proceeding: Oral Argument before Judge Barefoot Sanders (15+) (USC) (jas) [Entry date 04/07/99]

4/9/99 226 Letter MOTION to extend time for filing of trial briefs by plaintiff Messagephone Inc (2) (cxj)

4/9/99 227 ORDER granting [226-1] motion to extend time for filing of trial briefs (signed by BSanders) Copies to counsel:

04/09/99 Page(s) 1 (cxj)

- 4/14/99 228 Revised Joint PRETRIAL ORDER filed, see Order for specifics (signed by Judge Sanders) Page(s): 15+ (jas)
- 4/19/99 229 Trial Exhibit list by defendant SVI Systems Inc, defendant Tharaldson Property (12) (jas) [Entry date 04/20/99]
- 4/19/99 230 Requested/Proposed issues and jury instructions by plaintiff Messagephone Inc (15+) (USC) (jas) [Entry date 04/20/99]
- 4/19/99 231 TRIAL BRIEF by plaintiff Messagephone Inc (15+) (USC) (jas) [Entry date 04/20/99]
- 4/19/99 232 Propsed Verdict Form/Proposed voir dire questions by defendant SVI Systems Inc, defendant Tharaldson Property (9) (jas) [Entry date 04/20/99]
- 4/19/99 233 Proposed issues and jury instructions by defendant SVI Systems Inc, defendant Tharaldson Property (15+) (jas) [Entry date 04/20/99]
- 4/19/99 234 TRIAL BRIEF by defendant SVI Systems Inc, defendant Tharaldson Property (15+) (jas) [Entry date 04/20/99]
- 4/20/99 235 (Substitute Submission)Proposed Verdict Form/Proposed voir dire questions by defendant SVI Systems Inc, defendant Tharaldson Property (12) (jas) [Entry date 04/21/99]
- 4/26/99 236 MOTION with memorandum in support by plaintiff Messagephone Inc in limine (9) (jas)
- 4/26/99 237 Designation of Demonstrative Exhibits list by plaintiff Messagephone Inc (15+) (jas)
- 4/26/99 238 Proposed voir dire questions by plaintiff Messagephone Inc (7) (jas)
- 4/26/99 239 RESPONSE by plaintiff Messagephone Inc in opposition to [229-1] exhibits list (12) (jas)
- 4/26/99 240 MOTION by defendant SVI Systems Inc, defendant Tharaldson Property in limine no. 1 to preclude MPI from making reference to adult movies (5) (jas) [Entry date 04/27/99]
- 4/26/99 241 MOTION by defendant SVI Systems Inc, defendant Tharaldson Property in limine no. 2 to exclude evidence of voice prompts to show infringement (5) (jas) [Entry date 04/27/99]
- 4/26/99 242 MOTION by defendant SVI Systems Inc, defendant Tharaldson Property in limine no. 3 to exclude the proposed trial testimony of Greg Feigel (6) (jas) [Entry date 04/27/99]
- 4/26/99 243 MOTION by defendant SVI Systems Inc, defendant Tharaldson Property in limine no 4 to exclude the report and proposed trial testimony of Andrew J Dillon (15+) (jas) [Entry date 04/27/99]
- 4/26/99 244 MOTION by defendant SVI Systems Inc, defendant Tharaldson Property in limine no. 5 to preclude MPI from relying on unrelated licenses (6) (jas) [Entry date 04/27/99]
- 4/26/99 245 Proposed voir dire questions by defendant SVI Systems Inc, defendant Tharaldson Property (4) (jas) [Entry date 04/27/99]
- 4/26/99 246 Objections/RESPONSE by defendant SVI Systems Inc, defendant Tharaldson Property in opposition to [237-1] exhibits list

(10) (jas) [Entry date 04/27/99]

4/26/99 247 Counter-Designation of Depositions by defendant SVI Systems Inc, defendant Tharaldson Property (8) (jas) [Entry date 04/27/99]

4/26/99 248 Objections/RESPONSE by defendant SVI Systems Inc, defendant Tharaldson Property in opposition to pla's desposition designations (11) (jas) [Entry date 04/27/99]

4/26/99 249 Demonstrative Exhibit list by defendant SVI Systems Inc, defendant Tharaldson Property (4) (jas) [Entry date 04/27/99]

4/26/99 250 Demonstrative Exhibit list by defendant SVI Systems Inc, defendant Tharaldson Property (15+) (USC) (jas) [Entry date 04/27/99]

4/26/99 -- Pre-trial conference held before Judge Sanders (jas) [Entry date 04/27/99]

4/26/99 251 Minute order: Pretrial Conference Held before Senior Judge Barefoot Sanders Court Reporter: Janet Wright (1) (jas) [Entry date 04/27/99]

4/27/99 252 Proposed issues and jury instructions and interrogatories by plaintiff Messagephone Inc (7) (jas) [Entry date 04/28/99]

4/28/99 253 Comments and Proposal re: SVI's requested Claim Interpretation by plaintiff Messagephone Inc (5) (jas) [Entry date 04/29/99]

4/28/99 254 Submission re: Use of Special Verdict Interrogatories by defendant SVI Systems Inc, defendant Tharaldson Property (8) (jas) [Entry date 04/29/99]

4/28/99 255 Submission re: The Court's Proposed Claim Construction by defendant SVI Systems Inc, defendant Tharaldson Property (13) (jas) [Entry date 04/29/99]

4/28/99 256 Revised Objections/RESPONSE by defendant SVI Systems Inc, defendant Tharaldson Property in opposition to [237-1] exhibits list (10) (jas) [Entry date 04/29/99]

4/28/99 257 Joint STATUS REPORT re: the parties' objections to trial exhibits by plaintiff Messagephone Inc, defendant SVI Systems Inc, defendant Tharaldson Property (5) (jas) [Entry date 04/29/99]

4/29/99 258 RESPONSE by plaintiff Messagephone Inc in opposition to [255-1] submission re: the Court's proposed claim construction (4) (jas)

4/29/99 259 Objections/RESPONSE by plaintiff Messagephone Inc in opposition to [250-1] exhibits list (4) (jas) [Entry date 04/30/99]

4/29/99 260 Objections/RESPONSE by defendant SVI Systems Inc, defendant Tharaldson Property in opposition to [237-1] exhibits list (6) (jas) [Entry date 04/30/99]

4/29/99 261 RESPONSE by defendant SVI Systems Inc, defendant Tharaldson Property in opposition to [253-1] proposal re: Claim interpretation and request for reconsideration of their mtm for sum jgm (7) (jas) [Entry date 04/30/99]

4/29/99 262 RESPONSE by defendant SVI Systems Inc, defendant Tharaldson Property to [236-1] motion in limine (15+) (USC) (jas)

[Entry date 04/30/99]

4/29/99	263	MOTION by defendant SVI Systems Inc, defendant Tharaldson Property in limine No. 6 to preclude MPI from presenting evidence of prior conception of the '448 patent to predate the CCTS reference (5) (jas) [Entry date 04/30/99]
4/30/99	264	Joint preliminary Proposed issues and jury instructions by plaintiff Messagephone Inc, defendant SVI Systems Inc, defendant Tharaldson Property (9) (jas) [Entry date 05/03/99]
5/3/99	265	Proposed issues and jury instructions by defendant SVI Systems Inc, defendant Tharaldson Property and authorities in support (15+) (jas) [Entry date 05/04/99]
5/3/99	266	Proposed issues and jury instructions by plaintiff Messagephone Inc (15+) (jas) [Entry date 05/04/99]
5/3/99	267	Objection/RESPONSE by plaintiff Messagephone Inc in opposition to dfts' proposed use of dictionary (4) (jas) [Entry date 05/04/99]
5/3/99	268	RETURN OF SERVICE of a subpoena executed personally 4/30/99 as to Lawrence R Biggs, Jr (1) (jas) [Entry date 05/04/99]
5/3/99	269	Jury roll (7) (jas) [Entry date 05/04/99]
5/3/99	--	First day of Jury trial held before Judge Sanders (jas) [Entry date 05/04/99]
5/3/99	270	Minute order: First day of Jury trial Held before Senior Judge Barefoot Sanders Court Reporter: Janet Wright; adjourned until 9:00 5/4/99 (1) (jas) [Entry date 05/04/99]
5/4/99	--	Second day of Jury trial held before Judge Sanders. (jas) [Entry date 05/05/99]
5/4/99	271	Minute order: Second day of Jury trial Held before Senior Judge Barefoot Sanders Court Reporter: Janet Wright; adjourned until 9:00 5/5/99 (1) (jas) [Entry date 05/05/99] [Edit date 05/05/99]
5/5/99	272	MOTION by defendant SVI Systems Inc, defendant Tharaldson Property for Judgment as a Matter of Law (5) (jas)
5/5/99	--	Third day of Jury trial held before Judge Sanders (jas) [Entry date 05/06/99]
5/5/99	273	Minute order:Third day of jury trial Held before Senior Judge Barefoot Sanders Court Reporter: Janet Wright/Sue Engledow; adjourned until 11:00 5/6/99 (1) (jas) [Entry date 05/06/99]
5/6/99	--	4th day of Jury trial held (cxj) [Entry date 05/07/99]
5/6/99	274	Minute order: 4th day of jury trial Held before Senior Judge Barefoot Sanders Court Reporter: Janet Wright/Sue Engledow (1) (cxj) [Entry date 05/07/99]
5/7/99	275	MOTION by defendant SVI Systems Inc, defendant Tharaldson Property for Judgment as a Matter of Law (8) (jas) [Entry date 05/10/99]
5/7/99	276	TRANSCRIPT filed Court Reporter: P Sue Engledow Date(s): 5/4/99 Volume(s): II-B Type of proceeding: Jury Trial before Judge Sanders (15+) (USC) (jas) [Entry date 05/10/99]
5/7/99	277	TRANSCRIPT filed Court Reporter: P Sue Engledow Date(s):

5/5/99 Volume(s): III-A Type of proceeding: Jury Trial
before Judge Sanders (15+) (USC) (jas) [Entry date 05/10/99]

5/7/99 278 TRANSCRIPT filed Court Reporter: P Sue Engledow Date(s):
5/6/99 Volume(s): IV-A Type of proceeding: Jury Trial
before Judge Sanders (15+) (USC) (jas) [Entry date 05/10/99]

5/7/99 -- Fifth day of Jury trial held before Judge Sanders (jas)
[Entry date 05/10/99]

5/7/99 279 Minute order: Fifth day of jury trial Held before Senior
Judge Barefoot Sanders Court Reporter: Janet Wright; recess
until 5/10/99 (1) (jas) [Entry date 05/10/99]

5/10/99 -- Sixth day of Jury trial held before Judge Sanders (jas)

5/10/99 280 Minute order: Sixth day of jury trial Held before Senior
Judge Barefoot Sanders Court Reporter: Janet Wright (1) (jas)

5/10/99 281 Court's charge to jury (30) (jas)

5/10/99 281 JURY VERDICT for plaintiff Messagephone Inc (30) (jas)

5/14/99 282 Letter received from Donald C Templin by plaintiff
Messagephone Inc re: Final Jgm (1) (jas)
[Entry date 05/17/99] [Edit date 05/18/99]

5/14/99 283 MOTION with memorandum in support by plaintiff Messagephone
Inc for judgment (8) (jas) [Entry date 05/17/99]

5/17/99 284 ORDER Response to motion reset to 12:00 5/26/99 for
[283-1] motion for judgment, Reply to Response to Motion
reset to 12:00 6/1/99 for [283-1] motion for judgment (signed by Judge Sanders) Copies to counsel: 5/17/99
Page(s) 1 (jas)

5/26/99 285 RESPONSE by defendant SVI Systems Inc, defendant Tharaldson
Property to [283-1] motion for judgment (17) (jas)
[Entry date 05/27/99]

5/28/99 286 REPLY by plaintiff Messagephone Inc to response to [283-1]
motion for judgment (9) (jas) [Entry date 06/01/99]

6/2/99 287 SUR-REPLY by defendant SVI Systems Inc, defendant
Tharaldson Property to reply to response to [283-1] motion
for judgment (8) (jas) [Entry date 06/03/99]

6/8/99 288 FINDINGS OF FACT AND CONCLUSIONS OF LAW (signed by Judge
Sanders) Copies to counsel: 6/8/99 Page(s): 3 (jas)
[Entry date 06/09/99]

6/8/99 289 MEMORANDUM OPINION AND ORDER granting [283-1] motion for
judgment, See Order for specifics (signed by Judge
Sanders) Copies to counsel: 6/9/99 Page(s): 5 (jas)
[Entry date 06/09/99]

6/8/99 290 ***vacated per order of 3/8/01***JUDGMENT for plaintiff
Messagephone Inc against defendant SVI Systems Inc for the
amount of \$7,945,842.00 pursuant to 35 USC 284, attorneys'
fees and costs for all proceedings, Pla shall recover
pre-judgment interest...in the total amount of \$273,835.62;
Pla shall recover from Dft SVI Sys Inc post-jgm
interest...at the rate of 4.727%; A Permanent Injunction
shall issue, See Order for specifics (signed by Judge
Sanders) Copies to counsel: 6/9/99 Page(s): 4 (jas)
[Entry date 06/09/99] [Edit date 03/09/01]

6/8/99 -- Case closed (jas) [Entry date 06/09/99]

6/21/99 291 Renewed MOTION by defendant SVI Systems Inc for jgm after trial under Rule 50(b) and alternative mtn for new trial under Rule 59 and mtn to stay under Rule 62(b) (16) (jas) [Entry date 06/22/99]

6/21/99 292 Application/MOTION with memorandum in support by plaintiff Messagephone Inc to tax costs (8) (jas) [Entry date 06/22/99]

6/23/99 293 MOTION with memorandum in support by plaintiff Messagephone Inc for attorney fees (15+) (USC) (jas) [Entry date 06/24/99]

6/24/99 294 ORDER Response to motion reset to 12:00 7/13/99 for [293-1] motion for attorney fees, Reply to Response to Motion reset to 12:00 7/28/99 for [293-1] motion for attorney fees (signed by BS) Copies to counsel: 6/24/99 Page(s) 1 (jas)

6/25/99 295 ORDER denying as moot [291-1] motion for jgm after trial under Rule 50(b) and alternative mtn for new trial under Rule 59 and mtn to stay under Rule 62(b) (signed by BS) Copies to counsel: 6/28/99 Page(s) 1 (jas) [Entry date 06/28/99]

7/2/99 296 NOTICE OF APPEAL by defendant SVI Systems Inc re [295-1] order, [290-1] judgment order No fee PD/TO Mailed (svc) [Edit date 07/02/99]

7/2/99 -- Notice of appeal and certified copy of docket to USCA for the federal circuit: [296-1] appeal (svc) [Edit date 07/02/99]

7/2/99 297 RESPONSE by defendant SVI Systems Inc in opposition to MPI's bill of costs. (12) (jrb) [Entry date 07/06/99]

7/2/99 298 NOTICE of filing of the undertaking of Alfred A Norcott by defendant SVI Systems Inc (3) (jrb) [Entry date 07/06/99]

7/6/99 299 ORDER...Pla is Directed to file a response to Dft SVI's Objs to MPI's Bill of Costs, filed 07/02/99 by noon, 07/19/99; No reply may be filed unless requested by the Court (signed by BSanders) Copies to counsel: 07.07.99 Page(s) 1 (lag) [Entry date 07/07/99]

7/7/99 300 NOTICE OF APPEAL to the FEDERAL CIRCUIT by plaintiff Messagephone Inc re [290-1] judgment order, [215-1] order Payment: 105.00; TOOC Receipt # 300 114525 (3) (lch) [Entry date 07/08/99] [Edit date 07/08/99]

7/8/99 -- Notice of appeal and certified copy of docket to Federal Circuit: [300-1] appeal (lch) [Edit date 07/08/99]

7/13/99 301 RESPONSE by defendant SVI Systems Inc to [293-1] motion for attorney fees (6) (cxj) [Entry date 07/14/99]

7/14/99 302 Transcript order form submitted by counsel for SVI Systems for dates of 5/3/99 (including the pretrial conference conducted in chambers and opening remarks) and May 7 & 10, 1999 : Transcript requested [296-1] appeal (1) (lch)

7/14/99 -- Filing Fee Paid for appeal [296-1] filed 7/2/99; Filing Fee \$ 105.00 Receipt # 300 114812 (lch) [Entry date 07/15/99]

7/19/99 303 Transcript order form requesting trial dates from 5/3/99 to 5/10/99: Transcript requested [300-1] appeal (1) (lch) [Entry date 07/20/99]

7/19/99 304 RESPONSE by plaintiff Messagephone Inc in opposition to [297-1] opposition response (17) (svc) [Entry date 07/20/99]

7/19/99 -- US FEDERAL Circuit Case Number, 99-1478 Re: [300-1] appeal (lch) [Entry date 07/20/99]

7/26/99 305 TRANSCRIPT before Judge Barefoot Sanders of Pretrial Conference filed Appeal record due on 8/10/99 [300-1] appeal, Appeal record due on 8/10/99 [296-1] appeal for dates of 5/3/99 USC (15+) (lch) [Entry date 07/27/99]

8/2/99 306 Notice/SUGGESTION OF BANKRUPTCY by defendant SVI Systems Inc as to defendant SVI Systems Inc (3) (jas) [Entry date 08/03/99]

8/26/99 307 REPLY by plaintiff Messagephone Inc to response to [293-1] motion for attorney fees (4) (cxj) [Entry date 08/27/99]

9/28/99 308 ORDER...re: plaintiff's mtn for attys fees filed 6/23/99, plaintiff's appl to tax costs...oral arguments on these pleadings will be held at 2:00 on 10/29/99...see order for specifics. (signed by BS) Copies to counsel: 9/29/99 Page(s) 2 (jrb) [Entry date 09/29/99]

10/1/99 309 ORDER...at the request of counsel for plaintiff, the oral argument scheduled for 10/29/99 is rescheduled for 11/5/99 at 1:30 pm. (signed by BS) Copies to counsel: 10/4/99 Page(s) 1 (jrb) [Entry date 10/04/99]

11/5/99 310 Minute order: Mtn for atty's fees Held before Senior Judge Barefoot Sanders Court Reporter: Janet Wright (1) (jrb) [Entry date 11/08/99]

11/5/99 -- Motion hearing re: [293-1] motion for attorney fees (jrb) [Entry date 11/08/99]

11/5/99 311 ORDER...the plaintiff should have and recover from the dft SVI Systems Inc the amount of \$889,551.00 and its court cost in the amt of \$29,136.76....see order for other specifics. (signed by BS) Copies to counsel: 11/8/99 Page(s) 1 (jrb) [Entry date 11/08/99]

11/30/99 312 NOTICE OF APPEAL to the FEDERAL CIRCUIT by defendant SVI Systems Inc re [311-1] order Payment: 105.00 Receipt # 119628 (3) (lch) [Entry date 12/01/99]

12/1/99 -- Notice of appeal and certified copy of docket to Federal Circuit: [312-1] appeal (lch)

12/6/99 313 TRANSCRIPT of Jury Trial before Judge Sanders filed for the dates of 5/3/99; Appeal record due on 12/21/99 re: [312-1] appeal, [300-1] appeal, [296-1] appeal (15+) USC vol. 1 of 6 (lch) [Entry date 12/07/99]

12/6/99 314 TRANSCRIPT of Jury trial before Judge Sanders filed [312-1] appeal, [300-1] appeal, [296-1] appeal for dates of 5/4/99; vol. 2A of 6 (15+) USC (lch) [Entry date 12/07/99]

12/6/99 315 TRANSCRIPT of Jury Trial filed before Judge Sanders [312-1] appeal, [300-1] appeal, [296-1] appeal for dates of 5/5/99; vol. 3B of 6 (15+) USC (lch) [Entry date 12/07/99]

12/6/99 316 TRANSCRIPT of Jury trial before Judge Sanders filed [312-1] appeal, [300-1] appeal, [296-1] appeal for dates of 5/6/99; vol. 4 of 6 (15+) USC (lch) [Entry date 12/07/99]

12/6/99 317 TRANSCRIPT of Jury trial before Judge Sanders filed [312-1] appeal, [300-1] appeal, [296-1] appeal for dates of 5/7/99; vol. V-A of 6 (15+) USC (lch) [Entry date 12/07/99]

12/6/99 318 TRANSCRIPT of Jury trial before Judge Sanders filed [312-1] appeal, [300-1] appeal, [296-1] appeal for dates of 5/7/99; vol. 5-B of 6 (15+) USC (lch) [Entry date 12/07/99]

12/6/99 319 TRANSCRIPT of Jury trial before Judge Sanders filed [312-1] appeal, [300-1] appeal, [296-1] appeal for dates of 5/10/99; vol 6 of 6 (15+) USC (lch) [Entry date 12/07/99]

12/10/99 320 TRANSCRIPT of Motion Hearing on Attorneys before Judge Sanders fees filed [312-1] appeal for dates of 11/5/99; Court Reporter Janet Wright (1) cc: Judge (lch) [Entry date 12/13/99]

12/13/99 -- FEDERAL CIRCUIT Case Number, 00-1115 Re: [312-1] appeal (lch) [Edit date 12/13/99]

12/15/99 321 Transcript order form: Transcript requested for 11/5/99, Motion Hearing on Attorney fees [312-1] appeal, [296-1] appeal; Court Reporter Janet Wright (1) (lch)

2/3/00 322 MOTION with memorandum in support by plaintiff Messagephone Inc for contempt (15+) (nmc)

2/3/00 323 APPENDIX by plaintiff Messagephone Inc in support of [322-1] motion for contempt (15+) (usc) (nmc)

2/3/00 324 ORDER Response to motion reset to 12:00 2/23/00 for [322-1] motion for contempt, Reply to Response to Motion reset to 12:00 3/10/00 for [322-1] motion for contempt (signed by Judge Sanders) Copies to counsel: 2/3/00 Page(s) 1 (nmc)

2/16/00 325 Expedited MOTION by defendant SVI Systems Inc to extend time to file response to plaintiff's motion for contempt (4) (nmc) [Entry date 02/17/00]

2/17/00 326 RESPONSE by plaintiff Messagephone Inc to [325-1] motion to extend time to file response to plaintiff's motion for contempt (7) (nmc)

2/17/00 327 ORDER granting in part, denying in part [325-1] motion to extend time to file response to plaintiff's motion for contempt Response to motion reset to 12:00 2/28/00 for [322-1] motion for contempt See order for specifics (signed by Judge Sanders) Copies to counsel: 2/17/00 Page(s) 1 (nmc)

2/28/00 328 Unopposed MOTION by defendant SVI Systems Inc, defendant Tharaldson Property to substitute Larry D Carlson for Patrick McGowan (3) (nmc) [Entry date 02/29/00]

2/28/00 329 MOTION by defendant SVI Systems Inc to stay plaintiff's motion for contempt or in the alternative for an evidentiary hearing on plaintiff's motion (4) (nmc) [Entry date 02/29/00]

2/28/00 330 RESPONSE by defendant SVI Systems Inc to [322-1] motion for contempt and in support of its motion to stay proceedings or in the alternative for an evidentiary hearing (15+)(usc) (nmc) [Entry date 02/29/00]

2/28/00 331 AFFIDAVIT of Alfred Norcott (15+) (nmc) [Entry date 02/29/00]

2/28/00 332 AFFIDAVIT of Elizabeth Salmon (15+) (nmc) [Entry date 02/29/00]

2/29/00 333 ORDER granting [328-1] motion to substitute Larry D Carlson for Patrick McGowan ; terminated attorney Patrick F McGowan for Tharaldson Property, attorney Patrick F McGowan for SVI Systems Inc (signed by Judge Sanders) Copies to counsel: 3/1/00 Page(s) 1 (nmc) [Entry date 03/01/00]

3/10/00 334 REPLY by plaintiff Messagephone Inc to response to [322-1] motion for contempt (15+) (jrb) [Entry date 03/13/00]

3/10/00 334 RESPONSE by plaintiff Messagephone Inc to [329-1] motion to stay plaintiff's motion for contempt or in the alternative for an evidentiary hearing on plaintiff's motion (15+) (jrb) [Entry date 03/13/00]

3/22/00 335 ORDER Counsel are directed to file by 4/10/00 briefs not exceeding 10 pages setting forth their respective points of view See order for specifics(signed by Judge Sanders) Copies to counsel: 3/22/00 Page(s) 1 (nmc)

3/27/00 336 REPLY by defendant SVI Systems Inc to response to [329-1] motion to stay plaintiff's motion for contempt or in the alternative for an evidentiary hearing on plaintiff's motion (15+) (nmc) [Entry date 03/28/00]

3/27/00 337 Unopposed MOTION by defendant SVI Systems Inc, defendant Tharaldson Property to substitute Jon O Nelson, Joseph J Berghammer, Scott A Burow for H. Michael Hartman, Wesley Mueller and Eley Thompson (3) (nmc) [Entry date 03/28/00]

3/28/00 338 ORDER granting [337-1] motion to substitute Jon O Nelson, Joseph J Berghammer, Scott A Burow for H. Michael Hartman, Wesley Mueller and Eley Thompson ; (signed by Judge Sanders) Copies to counsel: 3/29/00 Page(s) 1 (nmc) [Entry date 03/29/00]

3/28/00 339 MOTION by defendant SVI Systems Inc, defendant Tharaldson Property for Scott Burow to appear pro hac vice (5) (nmc) [Entry date 03/29/00]

3/28/00 339 ORDER granting [339-1] motion for Scott Burow to appear pro hac vice (signed by Judge Sanders) Copies to counsel: 3/29/00 Page(s) 5 (nmc) [Entry date 03/29/00]

3/28/00 340 MOTION by defendant SVI Systems Inc, defendant Tharaldson Property for Jon Nelson to appear pro hac vice (5) (nmc) [Entry date 03/29/00]

3/28/00 340 ORDER granting [340-1] motion for Jon Nelson to appear pro hac vice (signed by Judge Sanders) Copies to counsel: 3/29/00 Page(s) 5 (nmc) [Entry date 03/29/00]

3/28/00 341 MOTION by defendant SVI Systems Inc, defendant Tharaldson Property for Joseph Berghammer to appear pro hac vice (5) (nmc) [Entry date 03/29/00]

3/28/00 341 ORDER granting [341-1] motion for Joseph Berghammer to appear pro hac vice (signed by Judge Sanders) Copies to counsel: 3/29/00 Page(s) 5 (nmc) [Entry date 03/29/00]

4/10/00 342 MEMORANDUM by plaintiff Messagephone Inc in support of [322-1] motion for contempt (3) (nmc) [Entry date 04/11/00]

4/10/00 343 MEMORANDUM by defendant SVI Systems Inc in opposition to [322-1] motion for contempt (12) (nmc) [Entry date 04/11/00]

4/19/00 344 MOTION by plaintiff Messagephone Inc for leave to file sur-reply (13) (nmc) [Entry date 04/20/00]

4/20/00 345 ORDER granting [344-1] motion for leave to file sur-reply (signed by Judge Sanders) Copies to counsel: 4/20/00 Page(s) 1 (nmc)

4/20/00 346 SUR-REPLY by plaintiff Messagephone Inc to reply to response to [329-1] motion to stay plaintiff's motion for contempt or in the alternative for an evidentiary hearing on plaintiff's motion (9) (nmc)

8/3/00 347 ORDER The court will hold a conference on plaintiff's motion for contempt and defendants' motion to stay on 9/6/00 2:00 (signed by Judge Sanders) Copies to counsel: 8/4/00 Page(s) 1 (nmc) [Entry date 08/04/00]

8/8/00 348 ORDER The conference on plaintiff's motion for contempt and defendant's motion to stay is reset to 9/7/00 at 2:00 (signed by Judge Sanders) Copies to counsel: 8/8/00 Page(s) 1 (nmc)

9/6/00 349 ORDER...Conference scheduled for 9/7/00 is canceled; set joint report due for 12:00 10/2/00 (signed by BS) Copies to counsel: 09.06.00 Page(s) 1 (alh)

9/8/00 350 JUDGMENT OF USCA FOR THE FEDERAL CIRCUIT(certified copy) Re: [312-1] appeal is dismissed. Issued as mandate on 9-6-00 (1) (svc) [Entry date 09/11/00]

9/8/00 351 AGREED ORDER denying as moot [322-1] motion for contempt (signed by BS) Copies to counsel: 09.11.00 Page(s) 2 (alh) [Entry date 09/11/00]

10/2/00 352 JOINT STATUS REPORT by plaintiff Messagephone Inc, defendant SVI Systems Inc (5) (alh)

11/16/00 353 Acknowledgment by Clerk of Return of Exhibits Submitted by SVI Systems Inc, Tharaldson Property (1) (alh) [Entry date 11/17/00]

12/27/00 354 ORDER OF USCA for the Federal Circuit(certified copy) Re: Petition for rehearing is granted for the limited purpose of amending the opinion to affirm the jury finding that Tharaldson did not infringe the patents. (2) (svc) [Entry date 12/28/00]

12/27/00 355 OPINION OF USCA for the Federal Circuit(certified copy) in accordance with USCA judgment re: [300-1] appeal, [296-1] appeal. See order for specifics (18) (svc) [Entry date 12/28/00]

12/27/00 356 JUDGMENT OF USCA for the Federal Circuit (certified copy) Re: [300-1] appeal, [296-1] appeal. Ordered and Adjudged: Affirmed in part, Reversed in part and Remanded. Issued as mandate on 12-20-00 (svc) [Entry date 12/28/00]

1/3/01 357 ORDER...counsel are directed to confer and to file with the Court by noon, Feb 5, 01 a joint reporting setting forth any issues remaining for disposition in this Court and their respective recommendations for any future proceedings in this Court. (signed by Judge Sanders) Copies to counsel: 1/4/01 Page(s) 1 (jrb) [Entry date 01/04/01] [Edit date 01/05/01]

2/5/01 358 JOINT STATUS REPORT by plaintiff Messagephone Inc, defendant SVI Systems Inc (6) (vdf) [Entry date 02/06/01]

2/22/01 359 ORDER referring case to ADR; V Bryan Medlock Jr ADR provider; Type of ADR: mediation Requested by: court...report is to be filed by 5/7/01. (signed by Senior

Judge Barefoot Sanders) Copies to counsel: 2/22/01
Page(s): 3 (jrb)

2/22/01 360 ORDER...this case is stayed pending further order of this Court. (Signed by Senior Judge Barefoot Sanders) Copies to counsel: 2/22/01 Page(s) 1 (jrb)

3/7/01 361 Unopposed MOTION by defendant SVI Systems Inc, defendant Tharaldson Property to vacate [290-1] judgment order and dismiss dft Tharaldson with prejudice(4) (jrb)
[Entry date 03/08/01]

3/8/01 362 ORDER granting [361-1] motion to vacate [290-1] judgment order and dismiss dft Tharaldson with prejudice vacating [290-1] judgment order (Signed by Senior Judge Barefoot Sanders) Copies to counsel: 3/9/01 Page(s) 1 (jrb)
[Entry date 03/09/01]

5/10/01 363 Letter by ADR Provider V Bryan Medlock Jr re: suggestion of mediation deadline be moved from 5/7 to 6/7/01. (1) (jrb)

5/10/01 364 ORDER...the May 8 2001 letter request from the mediator is granted. The mediation deadline is moved to 6/8/01. (Signed by Senior Judge Barefoot Sanders) Copies to counsel: 5/10/01 Page(s) 1 (jrb)

5/29/01 365 Received letter from ADR Provider V Bryan Medlock Jr addressed to Judge Sanders..Re:requesting an additional two weeks to June 22 for them to try and complete the mediation process. (1) (lmr) [Entry date 05/30/01]

5/29/01 366 Recieved letter from Judge Sanders addressed to V. Bryan Medlock Jr..Re:granting an additional two weeks to June 22, 2001 to complete the mediation process. (1) (lmr)
[Entry date 05/30/01]

6/25/01 367 Letter to Judge Sanders from mediator V. Bryan Medlock, Jr. (1) (mlh) [Entry date 06/26/01]

Case Flags:
M-KAP
ADR
CLOSED
JURY

END OF DOCKET: 3:97cv1813

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Description:	docket report	Search Criteria:	3:97cv01813
Billable Pages:	36	Cost:	2.52

2/9/1

DIALOG(R) File 345:Inpadoc/Fam.& Legal Stat
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10604239

Basic Patent (No,Kind,Date): CA 2058657 AA 19920712 <No. of Patents: 010>

PATENT FAMILY:

AUSTRALIA (AU)

Patent (No,Kind,Date): AU 9189860 A1 19920716
ACCESS PHONE (English)
Patent Assignee: STRATEGIC TELECOM
Author (Inventor): BIGGS LAWRENCE R
Priority (No,Kind,Date): US 640070 A 19910111
Applic (No,Kind,Date): AU 9189860 A 19911218
IPC: * H04M-017/02; H04M-003/42
Language of Document: English
Patent (No,Kind,Date): AU 9514998 A1 19950525
ACCESS PHONE (English)
Patent Assignee: STRATEGIC TELECOM
Author (Inventor): BIGGS LAWRENCE R
Priority (No,Kind,Date): US 640070 A 19910111
Applic (No,Kind,Date): AU 9514998 A 19950322
IPC: * H04M-003/42; H04M-017/02
Derwent WPI Acc No: * G 92-235614
Language of Document: English

CANADA (CA)

Patent (No,Kind,Date): CA 2058657 AA 19920712
SYSTEM FOR ACCESSING AMENITIES THROUGH A PUBLIC TELEPHONE NETWORK
(English; French)
Patent Assignee: STRATEGIC TELECOM (US)
Author (Inventor): BIGGS LAWRENCE R (US)
Priority (No,Kind,Date): US 640070 A 19910111
Applic (No,Kind,Date): CA 2058657 A 19911231
IPC: * H04M-011/00
Derwent WPI Acc No: * G 92-235614
Language of Document: English

EUROPEAN PATENT OFFICE (EP)

Patent (No,Kind,Date): EP 494530 A2 19920715
SYSTEM FOR ACCESSING AMENITIES THROUGH A PUBLIC TELEPHONE NETWORK
(English; French; German)
Patent Assignee: STRATEGIC TELECOM INC (US)
Author (Inventor): BIGGS LAWRENCE RAYMOND (US)
Priority (No,Kind,Date): US 640070 A 19910111
Applic (No,Kind,Date): EP 91311839 A 19920101
Designated States: (National) AT; BE; CH; DE; DK; ES; FR; GB; GR; IT;
LI; LU; MC; NL; PT; SE
IPC: * H04M-003/42; H04M-011/00; H04M-017/02
Derwent WPI Acc No: ; G 92-235614
Language of Document: English

Patent (No,Kind,Date): EP 494530 A3 19930421
SYSTEM FOR ACCESSING AMENITIES THROUGH A PUBLIC TELEPHONE NETWORK
(English; French; German)
Patent Assignee: STRATEGIC TELECOM INC (US)
Author (Inventor): BIGGS LAWRENCE RAYMOND (US)
Priority (No,Kind,Date): US 640070 A 19910111
Applic (No,Kind,Date): EP 91311839 A 19920101
Designated States: (National) AT; BE; CH; DE; DK; ES; FR; GB; GR; IT;
LI; LU; MC; NL; PT; SE
IPC: * H04M-003/42; H04M-011/00; H04M-017/02
Derwent WPI Acc No: * G 92-235614
Language of Document: English

EUROPEAN PATENT OFFICE (EP)

Legal Status (No,Type,Date,Code,Text):
EP 494530 P 19910111 EP AA

PRIORITY (PATENT

APPLICATION) (PRIORITAET (PATENTANMELDUNG))

US 640070 A 19910111
 EP 494530 P 19920101 EP AE EP-APPLICATION
 (EUROPAEISCHE ANMELDUNG)
 EP 91311839 A 19920101
 EP 494530 P 19920715 EP AK DESIGNATED CONTRACTING
 STATES IN AN APPLICATION WITHOUT SEARCH
 REPORT (IN EINER ANMELDUNG OHNE
 RECHERCHENBERICHT BENANNTE VERTRAGSSTAATEN)

AT BE CH DE DK ES FR GB GR IT LI LU MC NL PT
 SE
 EP 494530 P 19920715 EP A2 PUBLICATION OF APPLICATION
 WITHOUT SEARCH REPORT (VEROEFFENTLICHUNG DER
 ANMELDUNG OHNE RECHERCHENBERICHT)
 EP 494530 P 19920923 EP RBV DESIGNATED CONTRACTING
 STATES (CORRECTION) (BENANNTE
 VERTRAGSSTAATEN (KORR.))
 AT BE CH DE DK ES FR GB IT LI NL SE
 EP 494530 P 19930421 EP AK DESIGNATED CONTRACTING
 STATES IN A SEARCH REPORT (IN EINEM
 RECHERCHENBERICHT BENANNTE VERTRAGSSTAATEN)

AT BE CH DE DK ES FR GB GR IT LI LU MC NL PT
 SE
 EP 494530 P 19930421 EP A3 SEPARATE PUBLICATION OF THE
 SEARCH REPORT (ART. 93) (GESONDERTE
 VEROEFFENTLICHUNG DES RECHERCHENBERICHTS
 (ART. 93))
 EP 494530 P 19931215 EP 17P REQUEST FOR EXAMINATION
 FILED (PRUEFUNGSANTRAG GESTELLT)
 931019
 EP 494530 P 19970122 EP 18D DEEMED TO BE WITHDRAWN (ALS
 ZURUECKGENOMMEN GELTEN)
 960801

JAPAN (JP)

Patent (No,Kind,Date): JP 5048757 A2 19930226
 AMENITY ACCESS METHOD AND DEVICE (English)
 Patent Assignee: SUTORATEJITSUKU TEREKOMU
 Author (Inventor): ROORENSU AARU BITSUGUSU
 Priority (No,Kind,Date): US 640070 A 19910111
 Applic (No,Kind,Date): JP 923954 A 19920113
 IPC: * H04M-011/00; H04L-012/48; H04M-003/00; H04M-003/42; H04M-011/06
 Language of Document: Japanese

MEXICO (MX)

Patent (No,Kind,Date): MX 9200114 A1 19920921
 TELEFONO DE ACCESO (Spanish)
 Patent Assignee: STRATEGIC TELECOM (US)
 Author (Inventor): BIGGS LAWRENCE R (US)
 Priority (No,Kind,Date): US 640070 A 19910111
 Applic (No,Kind,Date): MX 9200114 A 19920110
 IPC: * H04M-001/00
 Derwent WPI Acc No: * G 92-235614
 Language of Document: Spanish

UNITED STATES OF AMERICA (US)

Patent (No,Kind,Date): US 5323448 A 19940621
 SYSTEM FOR ACCESSING AMENITIES THROUGH A PUBLIC TELEPHONE NETWORK
 (English)
 Patent Assignee: SPECTRADYNE INC (US)
 Author (Inventor): BIGGS LAWRENCE R (US); BUDOW HARRY S (US)
 Priority (No,Kind,Date): US 29851 A 19930311; US 640070 B1
 19910111
 Applic (No,Kind,Date): US 29851 A 19930311
 National Class: * 379091000; 379105000; 348003000; 348016000

IPC: * H04M-011/00
 Derwent WPI Acc No: * G 92-235614
 Language of Document: English
 Patent (No,Kind,Date): US 5333181 A 19940726
 SYSTEM FOR ACCESSING AMENITIES THROUGH A PUBLIC TELEPHONE NETWORK
 (English)
 Patent Assignee: STRATEGIC TELECOM INC (US)
 Author (Inventor): BIGGS LAWRENCE R (US)
 Priority (No,Kind,Date): US 92547 A 19930716; US 640070 B1
 19910111
 Applic (No,Kind,Date): US 92547 A 19930716
 National Class: * 379091000; 379115000; 379144000
 IPC: * H04M-011/00
 Derwent WPI Acc No: * G 92-235614
 Language of Document: English
 Patent (No,Kind,Date): US 5475740 A 19951212
 SYSTEM FOR ACCESSING AND PAYING FOR AMENITIES USING A TELEPHONE
 (English)
 Patent Assignee: SPECTRADYNE INC (US)
 Author (Inventor): BIGGS JR LAWRENCE R (US); BUDOW HARRY S (US)
 Priority (No,Kind,Date): US 80919 A 19930622; US 29851 A2
 19930311
 Applic (No,Kind,Date): US 80919 A 19930622
 Addnl Info: 5323448 Patented
 National Class: * 379091000; 379105000; 348003000; 348007000
 IPC: * H04M-011/00
 Derwent WPI Acc No: * G 96-039798; G 96-039798
 Language of Document: English

UNITED STATES OF AMERICA (US)

Legal Status (No,Type,Date,Code,Text):

US 5323448	P	19910111	US AA	PRIORITY
			US 640070 B1	19910111
US 5323448	P	19930311	US AE	APPLICATION DATA (PATENT)
			(APPL. DATA (PATENT))	
			US 29851 A	19930311
US 5323448	P	19930311	US AS02	ASSIGNMENT OF ASSIGNOR'S
			INTEREST	
			STRATEGIC TELECOM 17304 PRESTON ROAD, SUITE	
			975 DALLAS, TEXAS 75252-5614 ; BIGGS,	
			LAWRENCE R., JR. : 19930310; BUDOW, HARRY S.	
			: 19930310	
US 5323448	P	19930913	US AS02	ASSIGNMENT OF ASSIGNOR'S
			INTEREST	
			SPECTRADYNE, INC. 1501 NORTH PLANO ROAD	
			RICHARDSON, TX 75081 ; STRATEGIC TELECOM :	
			19930310	
US 5323448	P	19940621	US A	PATENT
US 5323448	P	19961223	US AS02	ASSIGNMENT OF ASSIGNOR'S
			INTEREST	
			MESSAGEPHONE, INC. SUITE 270, LB 64 5910	
			NORTH CENTRAL EXPRESSWAY DALLAS, TEXAS ;	
			SPECTRADYNE, INC. : 19961107	
US 5323448	P	19990322	US AS02	ASSIGNMENT OF ASSIGNOR'S
			INTEREST	
			MESSAGEPHONE, INC. (MPI) SUITE 270--LB-64	
			5910 NORTH CENTRAL EXPRESSWAY DALLAS, ; SPI	
			NEWCO, INC. (SUCCESSOR IN INTEREST TO	
			SPECTRADYNE, INC.) : 19990208	
US 5333181	P	19910111	US AA	PRIORITY
			US 640070 B1	19910111
US 5333181	P	19930716	US AE	APPLICATION DATA (PATENT)
			(APPL. DATA (PATENT))	
			US 92547 A	19930716
US 5333181	P	19940726	US A	PATENT
US 5333181	P	19950314	US CC	CERTIFICATE OF CORRECTION
US 5333181	P	19961107	US AS02	ASSIGNMENT OF ASSIGNOR'S
			INTEREST	

MURDOCK, REMMERS & ASSOCIATES, INC. 1112 29TH
 AVENUE S.W. CEDAR RAPIDS, IOWA 524 ;
 POWERTEL, A DELAWARE CORPORATION : 19960731
 US 5333181 P 19990126 US AS99 OTHER ASSIGNMENTS
 POWERTEL OF DELAWARE, INC. 164 MONROE HILL
 ROAD CARLISLE, MASSACHUSETTS 01741 ;
 MEESPIERSON, INC. : 19960626; APPLIED
 TELECOMMUNICATION TECHNOLOGIES I N.V. :
 19960626; APPLIED TELE : 19960626; OTHER
 CASES: NONE; TRANSFER OF ASSETS
 US 5475740 P 19930311 US AA PRIORITY
 US 29851 A2 19930311
 US 5475740 P 19930622 US AE APPLICATION DATA (PATENT)
 (APPL. DATA (PATENT))
 US 80919 A 19930622
 US 5475740 P 19940207 US AS02 ASSIGNMENT OF ASSIGNOR'S
 INTEREST
 SPECTRADYNE, INC. 1501 NORTH PLANO ROAD
 RICHARDSON, TX 75081 ; BUDOW, HARRY S. :
 19940118
 US 5475740 P 19951212 US A PATENT
 US 5475740 P 19961223 US AS02 ASSIGNMENT OF ASSIGNOR'S
 INTEREST
 MESSAGEPHONE, INC. SUITE 270, LB 64 5910
 NORTH CENTRAL EXPRESSWAY DALLAS, TEXAS ;
 SPECTRADYNE, INC. : 19961107
 US 5475740 P 19990322 US AS02 ASSIGNMENT OF ASSIGNOR'S
 INTEREST
 MESSAGEPHONE, INC. (MPI) SUITE 270--LB-64
 5910 NORTH CENTRAL EXPRESSWAY DALLAS, ; SPI
 NEWCO, INC. (SUCCESSOR IN INTEREST TO
 SPECTRADYNE, INC.) : 19990208

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LEXIS-NEXIS
Library: NEWS
File: CURNWS

September 1, 2000

SECTION: PATENT; Vol. 8; No. 23

LENGTH: 1078 words

HEADLINE: Post-Suit Assignment No Cure For Lack Of Standing, Federal Circuit
Rules

DATELINE: WASHINGTON, D.C.

... 000901-018. 19 pages.)

SVI Systems Inc., which Messagephone accused of infringing the patents, contended that the claims of one patent, the 5,323,448 patent, were invalid for failure to comply with the written description requirement, that a special master erred in claim construction of the ...

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Mealey's Litigation Report:
Patents

September 1, 2000

SECTION: NEW PUBLICATION; Vol. 8; No. 7

LENGTH: 1077 words

HEADLINE: Post-Suit Assignment No Cure For Lack Of Standing, Federal Circuit
Rules

DATELINE: WASHINGTON, D.C.

... Document 16-000901-018.)

SVI Systems Inc., which Messagephone accused of infringing the patents, contended that the claims of one patent, the 5,323,448 patent, were invalid for failure to comply with the written description requirement, that a special master erred in claim construction of the ...

5,323,448 OR 5323448

LEXIS-NEXIS
Library: PATENT
File: JNLS

Your search request has found no ITEMS.

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What you enter will be Search Level 1.

For further explanation, press the H key (for HELP) and then the ENTER key.

1/4 LGST (1/1) - (C) LEGSTAT
PN - US 5323448 [US5323448]
AP - US 29851/93 19930311 [1993US-0029851]
DT - US-P
ACT - 19930311 US/AE-A
APPLICATION DATA (PATENT)
{US 29851/93 19930311 [1993US-0029851]}

- 19930311 US/AS02
ASSIGNMENT OF ASSIGNOR'S INTEREST
STRATEGIC TELECOM 17304 PRESTON ROAD, SUITE 975 DALLAS, TEXAS
75252-5614 * BIGGS, LAWRENCE R., JR. : 19930310; BUDOW, HARRY S. :
19930310

- 19930913 US/AS02
ASSIGNMENT OF ASSIGNOR'S INTEREST
SPECTRADYNE, INC. 1501 NORTH PLANO ROAD RICHARDSON, TX 75081 *
STRATEGIC TELECOM : 19930310

- 19940621 US/A
PATENT

- 19961223 US/AS02
ASSIGNMENT OF ASSIGNOR'S INTEREST
MESSAGEPHONE, INC. SUITE 270, LB 64 5910 NORTH CENTRAL EXPRESSWAY
DALLAS, TEXAS * SPECTRADYNE, INC. : 19961107

- 19990322 US/AS02
ASSIGNMENT OF ASSIGNOR'S INTEREST
MESSAGEPHONE, INC. (MPI) SUITE 270--LB-64 5910 NORTH CENTRAL
EXPRESSWAY DALLAS, * SPI NEWCO, INC. (SUCCESSOR IN INTEREST TO
SPECTRADYNE, INC.) : 19990208

UP - 2000-08

2/4 CRXX (1/1) - (C) CLAIMS/RRX
AN - 2501647
PN - 5,323,448 A 19940621 [US5323448]
PA - Spectradyne Inc
PT - E (Electrical)
ACT - 19961223 REASSIGNED
ASSIGNMENT OF ASSIGNOR'S INTEREST

Assignor: SPECTRADYNE, INC. DATE SIGNED: 11/07/1996

Assignee: MESSAGEPHONE, INC. SUITE 270, LB 64 5910 NORTH CENTRAL
EXPRESSWAY DALLAS, TEXAS 75206

Reel 008274/Frame 0777

Contact: HAYNES AND BOONE, L.L.P. DAVID L. MCCOMBS 3100 NATIONSBANK
PLAZA 901 MAIN STREET DALLAS, TEXAS 75202-3789

- 19990322 REASSIGNED
ASSIGNMENT OF ASSIGNOR'S INTEREST

Assignor: SPI NEWCO, INC. (SUCCESSOR IN INTEREST TO SPECTRADYNE,
INC.) DATE SIGNED: 02/08/1999

Assignee: MESSAGEPHONE, INC. (MPI) SUITE 270--LB-64 5910 NORTH CENTRAL
EXPRESSWAY DALLAS, TEXAS 75206-180

Reel 009833/Frame 0881

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PLAZA 901 MAIN STREET DALLAS, TX 75202-3789

UP - 1999-00
URAS- 1999-12-07

3/4 PAST (1/1) - (C) PAST
AN - 199733-001451
PN - 5323448 A [US5323448]
DT - A (UTILITY)
CO - PS
ACT - PATENT SUIT
NO - LITALERT

4/4 LITA (1/1) - (C) LITALERT
AN - P1997-33-23
FS - PATENT (P)
PN - US5323448 19940621 (Utility)
TI - System for accessing amenities through a public telephone network
PCL - 379091000
IN - Biggs Lawrence R - Plano TX;
- Budow Harry S - Plano TX
PA - Spectradyne Incorporated - Richardson TX
IT - Telephonic Communications
PF - MessagePhone Incorporated
DF - SVI Systems Incorporated;
- Tharaldson Property Management Incorporated
CT - TX, Northern Dist.
DN - 3:97-CV-1813-H
FD - 1997-07-25
ACT - A complaint was filed.
OPN - US5475740
UP - 1997-33

LEVEL 1 - 1 OF 1 PATENT

5,323,448

<=2> GET 1st DRAWING SHEET OF 6

Jun. 21, 1994

System for accessing amenities through a public telephone
network

LIT-REEX: NOTICE OF LITIGATION

Messagephone Inc v. SVI Systems Inc, et al, Filed Jul. 25, 1997, D.C. N.D.
Texas, Doc. No. 3:97-CV-1813-H

CORE TERMS: amenity, billing, user, telephone, computer, switch, phone,
store-and-forward, credit card, offering...

LEXIS-NEXIS
Library: PATENT
File: ALL

1ST CASE of Level 1 printed in FULL format.

MESSAGEPHONE, INC., Plaintiff-Cross Appellant, v. SVI SYSTEMS, INC., Defendant-Appellant, and
THARALDSON PROPERTY MANAGEMENT, INC., (doing business as Holiday Inn Express),
Defendant.

99-1471, 99-1478

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT
2000 U.S. App. LEXIS 19976

August 11, 2000, Decided

NOTICE:

[*1] RULES OF THE FEDERAL CIRCUIT COURT OF APPEALS MAY LIMIT CITATION TO UNPUBLISHED OPINIONS. PLEASE REFER TO THE RULES OF THE UNITED STATES COURT OF APPEALS FOR THIS CIRCUIT.

SUBSEQUENT HISTORY: Rehearing for Limited Purpose Granted December 13, 2000, Reported at: 2000 U.S. App. LEXIS 34046; Rehearing Denied December 13, 2000, Reported at: 2000 U.S. App. LEXIS 34038. Reported in Table Case Format at: 2000 U.S. App. LEXIS 37477.

DISPOSITION: Reversed-in-part, vacated-in-part, and remanded.

CASE SUMMARY

PROCEDURAL POSTURE: Appellant challenged decisions of the United States District Court for the Northern District of Texas accepting a Special Master's claim construction, and the jury's finding that it willfully infringed cross-appellant's patents; cross-appellant challenged a grant of summary judgment that appellant did not infringe one claim of appellant's patent and the jury's finding that cross-appellee did not infringe any of the claims at issue.

OVERVIEW: Cross-appellant filed suit against appellant and cross-appellee alleging patent infringement on two patents. The patents related to a system that allowed hotel guests to order amenities without incurring charges on their hotel bill. Cross-appellant received its patent through assignment. The lower court made various decision, and the jury reached several verdicts regarding infringement, all of which were challenged by appellant and cross-appellant. The court found since cross-appellant was assigned its patent, it lacked standing to sue for infringement that occurred prior to the assignment. Therefore, the lower court erred in refus-

ing to limit damages. Also, because no reasonable jury could find the specification on one patent complied with a written description requirement, the court reversed the district court's denial of appellant's judgment as a matter of law and held certain claims were invalid. Finally, because the jury's finding of infringement by appellant and non-infringement by cross-appellee were based on erroneously construed terms, the court vacated findings in appellant's and cross-appellee's favor and remanded for a proper determination of infringement.

OUTCOME: The court reversed the lower court's decision not to limit recovery because cross-appellant did not have standing to receive damages for pre-assignment infringements of its patent; the court vacated the jury's infringement decision, finding insufficient evidence was submitted for the decision; and the court vacated the summary judgment grant, finding it was based on an erroneous claim description.

CORE TERMS: patent, amenity, infringement, telephone, billing, switch, connected, prompt, written description, specification, network, identification, hotel, switched, offering, user, connect, guest, special master, infringe, processing, storing, summary judgment, infringed, invention, invalid, nunc pro tunc, vacate, credit card, intelligent

CORE CONCEPTS -

Civil Procedure: Justiciability: Standing
In order for a court to exercise jurisdiction, a plaintiff must have standing to sue on the date it files suit.

Civil Procedure: Justiciability: Standing
Courts review questions of standing de novo.

Patent Law: Ownership & Transfer of Rights:
Assignments & Transfers
Patent Law: Infringement: Acts of Infringement

As a general rule, only a party that possessed legal title to a patent at the time the infringement occurred can bring suit to recover damages for such infringement. A narrow exception to the foregoing rule is that a party may sue for infringement transpiring before it acquired legal title if a written assignment expressly grants the party a right to do so; that right, however, must be articulated explicitly in the assignment and will not be inferred by the court.

Civil Procedure: Justiciability: Standing

A nunc pro tunc assignment executed after filing of a lawsuit cannot retroactively cure standing that was deficient at the time of filing.

Civil Procedure: Justiciability: Standing

Patent Law: Ownership & Transfer of Rights: Assignments & Transfers

A nunc pro tunc assignment executed after a case is filed cannot confer standing to sue for infringement if the assignee did not have title to the patents when the infringement occurred.

Patent Law: Jurisdiction & Review: Standards of Review

Determining whether a patent specification complies with the written description requirement presents a question of fact, which courts review for substantial evidence following a jury verdict. Although the substantial evidence standard is a deferential one, it does not relegate the court to the ministerial task of merely rubber stamping the jury verdict. Rather, courts must undertake a review of the entire record to determine whether it contains sufficient evidence upon which a reasonable jury could have found for the prevailing party.

Patent Law: Specification & Claims: Description Requirement

35 U.S.C.S. § 112 provides that a patent specification shall contain a written description of the invention. To satisfy the written description requirement, the specification must describe every element of the claimed invention in sufficient detail so that one of ordinary skill in the art would recognize that the inventor possessed the claimed invention at the time of filing. While the exact terms employed in the claims need not appear verbatim in the specification, the specification must provide an equivalent description of the claimed invention through use of other descriptive words, structures, figures, diagrams, formulas, and so forth.

Patent Law: Infringement: Claim Interpretation

Claim construction is a question of law that courts review de novo on appeal.

Patent Law: Infringement: Claim Interpretation

Proper claim construction requires analysis of the patent record's intrinsic evidence - the claim language, the written description, and the prosecution history. Resort to extrinsic evidence for purposes of claim construction is appropriate only if, after a review of the intrinsic evidence, the meaning of a claim term remains ambiguous.

Patent Law: Infringement: Claim Interpretation

To determine the meaning of a claim term, a court must analyze arguments and amendments made during the prosecution of a patent application.

JUDGES: Before MAYER, Chief Judge, CLEVENGER and GAJARSA, Circuit Judges.

OPINIONBY: GAJARSA

OPINION:

GAJARSA, Circuit Judge.

On July 25, 1997, Messagephone, Inc. ("Messagephone") filed suit in the United States District Court for the Northern District of Texas, alleging that SVI Systems, Inc. ("SVI") and Tharaldson Property Management, Inc. ("Tharaldson") infringed U.S. Patent Nos. 5,323,448 ("the '448 patent") and 5,475,740 ("the '740 patent"). The '448 and '740 patents relate to a system that allows hotel guests to order amenities in their rooms without incurring charges on their hotel bill. SVI appeals the following issues: (1) the denial of its motion to limit Messagephone's potential recovery of damages for infringement that occurred after Messagephone obtained legal title to the patents; (2) the denial of its motion for judgment as a matter of law ("JMOL") seeking to invalidate certain claims in the '448 patent for failure to comply with the written description[*2] requirement; (3) the Special Master's claim construction and the jury's finding that it willfully infringed claim 1 of the '448 patent and claims 1 and 32 of the '740 patent; and (4) the district court's award of treble damages and attorney fees to Messagephone. Messagephone cross-appeals the following issues: (1) the district court's grant of summary judgment that SVI did not infringe claim 18 of the '448 patent, and (2) the jury's finding that Tharaldson did not infringe any of the claims at issue. We reverse-in-part, vacate-in-part, and remand.

I. BACKGROUND

The '448 and '740 patents teach a system that enables

hotel guests to order certain amenities, such as movies, in their hotel rooms without incurring charges on their hotel bill. The system includes a specially-equipped telephone that can process credit card information to authorize charges for selected amenities. Figure 2 from the '448 patent provides a diagram of the system.

[SEE FIGURE 2 IN ORIGINAL]

The system utilizes a telephone 10 that connects through a hotel's private branch exchange network 12 to a telephone switching network 22, which permits communication with various amenity providers 52 and[*3] a billing computer 50. To use the system, a hotel guest selects an amenity by dialing a predetermined code on the telephone buttons and then swipes the credit card through a credit card reader in the telephone 10. The telephone 10 then transmits the payment information through a switched telephone network 22 to the store and forward switch 48, which communicates with the billing computer 50 to validate the payment information. Following validation, the telephone 10 connects to the chosen amenity.

Claim 1 of the '448 patent provides as follows:

Apparatus for processing billing information through a switched network telephone system for offering pay per view amenities to a user at an amenity device within a facility, the apparatus comprising:

a telephone at said facility and connected to said switched network telephone system by a telephone line, said telephone for transmitting and receiving information on said line;

a line powered card reader connected to said telephone for reading credit cards and extracting billing information therefrom;

a power supply connected to said line and said card reader for converting power of said line to a power supply voltage with[*4] sufficient current to power said card reader;

a processor connected to said card reader and said telephone for controlling said card reader to extract said billing information from said credit card and for transmitting said extracted billing information on said line;

a billing computer connected to said telephone system for receiving and validating said transmitted billing information; and

a central distribution computer located at said facility and connected without said switched network telephone system directly to said amenity device for facilitating the offer of a pay per view offering responsive to said billing computer validation.

Similarly, claim 18 of the '448 patent covers a method of accessing pay per view offerings at an amenity location within a facility through use of, among other things, a central distribution computer. Claim 18 provides as follows:

A method for user access to pay per view offerings at an amenity location within a facility, the method comprising:

providing a central distribution computer within said facility, said central distribution computer being connected without a public switched network to said amenity location[*5] for offering a pay per view offering;

providing a store and forward switch connected to said central distribution computer and providing a telephone connected to said store and forward switch, said store and forward switch receiving and storing from said telephone user billing information and pay per view offering identification information;

responsive to said receiving and storing, said store and forward switch instructing said central distribution computer to offer a pay per view offering selected by said telephone user at said amenity location.

The precise term "central distribution computer" does not appear anywhere in the written description of the '448 patent.

In a similar vein, claim 1 of the '740 patent provides as follows:

Apparatus for accessing and paying for video entertainment amenities by a user at an amenity location connected to a pay-per-view (PPV) system, the apparatus comprising:

a telephone for entering billing information and amenity identification information;

a central distribution computer (CDC) connected to said telephone and said PPV system for storing and processing said entered billing and amenity identification information[*6] to facilitate the payment for said amenity and presentation of said amenity by said PPV system, said CDC including a store-and-forward switch (SFS) con-

nectable to said telephone for storing and processing said entered information, and a graphics circuit connected to said SFS for generating user prompts to said PPV system responsive to said SFS processing, said CDC determining whether a prompt is to be initiated and determining the content of the prompt, thereby providing an interactive session between said PPV system and said telephone via the SFS; and a billing data base connected to said CDC for storing entered billing information received by said CDC.

Claim 32 provides as follows:

A method for accessing and paying for video entertainment amenities by a user at an amenity location connected to a pay-per-view (PPV) system, the method comprising:

entering billing information and amenity identification information using a telephone;

storing and processing said entered information to facilitate payment for and presentation of said amenity;

responsive to said processing, displaying graphic user prompts to said user with said PPV system, said PPV system determining[*7] whether a prompt is to be initiated and determining the content of the prompt, thereby providing an interactive session between said PPV system and said telephone; and validating said entered billing information.

Upon issuance, the '448 and '740 patents were assigned to Spectradyn, Inc. ("Spectradyn"). On November 7, 1998, Messagephone received title to the '448 and '740 patents by written assignment from Spectradyn. The assignment provided Messagephone with Spectradyn's "entire right, title, and interest" under the patents, but it did not expressly grant Messagephone the right to sue for infringement that occurred prior to the assignment date. The assignment also contained a release provision in which Spectradyn disclaimed all claims it had against Messagephone for infringement of the '448 and '740 patents.

On July 25, 1997, Messagephone sued SVI and Tharaldson for infringement of the '448 and '740 patents. SVI sells computerized systems that enable hotel guests to order certain amenity services, such as movies, in their hotel rooms. Tharaldson, which does business under the cognomen of Holiday Inn Express, allows SVI's systems to be placed in its hotels.

At the outset[*8] of litigation, SVI filed a motion argu-

ing that the November 7, 1996 assignment did not grant Messagephone the right to sue for infringement that occurred before the assignment date, and seeking to limit recovery of potential damages only to infringement that occurred after that date. As a result, Messagephone and Spectradyn executed a subsequent nunc pro tunc assignment on February 8, 1999, granting Messagephone the right to sue for infringement that occurred prior to the initial assignment date. The district court then denied SVI's motion.

SVI and Messagephone also filed cross motions for summary judgment on the issues of claim construction and infringement, and the district court appointed a Special Master to hear those issues. The Special Master held a Markman hearing to construe the disputed claim terms and issued a written opinion. The district court adopted the Special Master's report in full and used his claim construction to instruct the jury on infringement. Following the Special Master's claim construction, SVI filed two separate motions for summary judgment. In its first motion, SVI argued that claims 1 and 18 of the '448 patent are invalid for failure to satisfy the[*9] written description requirement with regard to the term "central distribution computer." In its second motion, SVI argued that, based on the Special Master's claim construction, it did not infringe claim 18 of the '448 patent. The district court denied the first motion and granted the second.

The following issues, among others, then proceeded to trial: (1) whether claim 1 of the '448 patent was invalid for failure to comply with the written description requirement; (2) whether SVI's product infringed claim 1 of the '448 patent and claims 1 and 32 of the '740 patent; (3) whether SVI's infringement was willful; and (4) whether Tharaldson was also liable for infringement.

The jury returned a verdict finding: (1) that claim 1 of the '448 patent was not invalid for failure to comply with the written description requirement; (2) that SVI infringed claim 1 of the '448 patent and claims 1 and 32 of the '740 patent; (3) that SVI's infringement was willful; and (4) that Tharaldson was not liable for infringement. Following the jury verdict, the district court denied SVI's motion for JMOL motion, see Fed. R. Civ. P. 50(b), on the issue of written description. Messagephone did not file a[*10] JMOL challenging the jury's finding that Tharaldson did not infringe any of the disputed claims. The district court further determined that the issues were "not even close" and trebled the jury's damages award of \$ 2,648,614, which included damages for infringement that occurred before Messagephone acquired title to the '448 and '740

patents. The district court also awarded attorney fees to Messagephone.

SVI appeals (1) the denial of its motion for summary judgment seeking to limit potential damages to infringement that occurred after Messagephone acquired title to the '448 and '740 patents; (2) the denial of its JMOL seeking to invalidate claims 1 and 18 of the '448 patent for failure to satisfy the written description requirement; (3) the Special Master's claim construction of the term "switched telephone network" in claim 18 of the '448 patent and the terms "intelligent prompting" and "amenity identification information" in claims 1 and 32 of the '740 patent, as well as the jury's finding that it willfully infringed those claims; and (4) the district court's award of treble damages and attorney fees. Messagephone, for its part, cross-appeals seeking reversal of the district court's[*11] grant of summary judgment that SVI did not infringe claim 18 of the '448 patent and the jury's verdict that Tharaldson did not infringe any of disputed claims.

STANDING

In order for a court to exercise jurisdiction, a plaintiff must have standing to sue on the date it files suit. See *Minneapolis & St. Louis R.R. Co. v. Peoria & Pekin Union Ry. Co.*, 270 U.S. 580, 586, 70 L. Ed. 743, 46 S. Ct. 402 (1926) ("The jurisdiction of the lower court depends upon the state of things existing at the time the suit was brought."); *Gaia Techs., Inc. v. Reconversion Techs., Inc.*, 93 F.3d 774, 780, 41 U.S.P.Q.2D (BNA) 1134, 1139 (Fed. Cir. 1996). We review questions of standing de novo. See *Enzo Apa & Son, Inc. v. Geapag A.G.*, 134 F.3d 1090, 1092, 45 U.S.P.Q.2D (BNA) 1368, 1369 (Fed. Cir. 1998).

As a general rule, only a party that possessed legal title to a patent at the time the infringement occurred can bring suit to recover damages for such infringement. See *Mas-Hamilton Group v. LaGard, Inc.*, 156 F.3d 1206, 1210, 48 U.S.P.Q.2D (BNA) 1010, 1013 (Fed. Cir. 1998); *Arachnid, Inc. v. Merit Indus., Inc.*, 939 F.2d 1574, 1579, 19 U.S.P.Q.2D (BNA) 1513, 1517 (Fed. Cir. 1991); [*12]see also *Crown Die & Tool Co. v. Nye Tool & Mach. Works*, 261 U.S. 24, 40-41, 67 L. Ed. 516, 43 S. Ct. 254(1923) (explaining that "plaintiff in an action at law must be the person . . . in whom the legal title of the patent resided at the time of the infringement"). A narrow exception to the foregoing rule is that a party may sue for infringement transpiring before it acquired legal title if a written assignment expressly grants the party a right to do so; that right, however, must be articulated explicitly in the assignment and will not be

inferred by the court. See *Arachnid*, 939 F.2d at 1579 & n.7, 19 U.S.P.Q.2D (BNA) at 1517 & n.7 (collecting cases and treatises supporting the proposition); see also *Moore v. Marsh*, 74 U.S. (7 Wall.) 515, 522, 19 L. Ed. 37 (1868) ("It is a great mistake to suppose that the assignment of a patent carries with it the right to damages for an infringement committed before such assignment.").

In the present case, the November 7, 1996 assignment grants Messagephone the "entire right, title, and interest" in the '448 and '740 patents. The assignment, however, is silent as to Messagephone's right to sue for infringement[*13] that occurred prior to that date. Accordingly, in the absence of any explicit language conveying such a right, we hold that Messagephone lacked standing to sue for infringement of the '448 and '740 patents that occurred before November 7, 1996. Additionally, other provisions in the assignment confirm our conclusion. In particular, the assignment contains a release provision in which Spectradyne disclaimed all infringement claims it had against Messagephone. It logically follows, therefore, that the assignment did not grant Messagephone the right to sue for past infringement, otherwise the release provision would be rendered superfluous.

Citing *Mas-Hamilton* for support, Messagephone contends that the subsequent nunc pro tunc assignment executed on February 8, 1999, confers it with standing to sue for past infringement. We reject that argument for several reasons. This court's precedent clearly establishes that a nunc pro tunc assignment executed after filing of a lawsuit cannot retroactively cure standing that was deficient at the time of filing. See *Enzo*, 134 F.3d at 1093, 45 U.S.P.Q.2D (BNA) at 1371; *Gaia Techs.*, 93 F.3d at 780, 41 U.S.P.Q.2D (BNA) at 1139.[*14] Nor does *Mas-Hamilton* hold to the contrary. Indeed, in *Mas-Hamilton*, we acknowledged that a nunc pro tunc assignment executed after a case is filed cannot confer standing to sue for infringement if the assignee did not have title to the patents when the infringement occurred. 156 F.3d at 1211, 48 U.S.P.Q.2D (BNA) at 1014.

Furthermore, *Mas-Hamilton* is substantively distinct from the present case. In *Mas-Hamilton*, the assignor of the patent, who originally filed suit in district court, had standing to sue the defendant for past infringement. *Id.* at 1210, 48 U.S.P.Q.2D (BNA) at 1014. After the defendant filed an appeal, the assignor assigned the patent and the assignee assumed the appeal. See *id.* During the pendency of the appeal, the assignor executed a supplemental nunc pro tunc assignment giving the assignee the right to sue for past infringement. See *id.* On ap-

peal, we held that standing was never wanting because the assignor had title to the patent both when the suit was filed and when the appeal was filed; as a result, the assignee could maintain the action for past infringement. See *id.* Thus, we concluded that the nunc pro tunc[*15] assignment was irrelevant because it was not used to cure deficient standing. See *id.* In the present case, by contrast, Messagephone, who filed suit as the assignee, did not have title to the '448 and '740 patents prior to November 7, 1996, and the initial assignment, as explained above, did not accord it standing to sue for infringement occurring prior to that date.

II. WRITTEN DESCRIPTION

Determining whether a patent specification complies with the written description requirement presents a question of fact, see *Gentry Gallery, Inc. v. Berkline Corp.*, 134 F.3d 1473, 1479, 45 U.S.P.Q.2D (BNA) 1498 (Fed. Cir. 1998), which we review for substantial evidence following a jury verdict, see *Baxter Int'l, Inc. v. McGraw, Inc.*, 149 F.3d 1321, 1332, 47 U.S.P.Q.2D (BNA) 1225, 1233 (Fed. Cir. 1998). Although the substantial evidence standard is a deferential one, it does not relegate this court to the ministerial task of merely rubber stamping the jury verdict. Rather, we must undertake a review of the entire record to determine whether it contains sufficient evidence upon which a reasonable jury could have found for the prevailing party. See *National Presto Indus., Inc. v. West Bend Co.*, 76 F.3d 1185, 1192, 37 U.S.P.Q.2D (BNA) 1685, 1690 (Fed. Cir. 1996)[*16] (holding that a jury verdict must be sustained if it is supported by substantial evidence based on a review of the entirety of the record); see also *Consolidated Edison Co. v. National Labor Relations Bd.*, 305 U.S. 197, 229, 83 L. Ed. 126, 59 S. Ct. 206 (1938) ("Substantial evidence is more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.").

Section 112 provides that a patent specification "shall contain a written description of the invention." 35 U.S.C. § 112, P 1 (1994). To satisfy the written description requirement, the specification must describe every element of the claimed invention in sufficient detail so that one of ordinary skill in the art would recognize that the inventor possessed the claimed invention at the time of filing. See *Vas-Cath Inc. v. Mahurkar*, 935 F.2d 1555, 1563, 19 U.S.P.Q.2D (BNA) 1111, 1117 (Fed. Cir. 1991); *In re Gosteli*, 872 F.2d 1008, 1012, 10 U.S.P.Q.2D (BNA) 1614, 1618 (Fed. Cir. 1989). While the exact terms employed in the claims need not appear verbatim in the specification, see *Eiselstein v.*

Frank, 52 F.3d 1035, 1038, 34 U.S.P.Q.2D (BNA) 1467, 1470 (Fed. Cir. 1995),[*17] the specification must provide an equivalent description of the claimed invention through use of other descriptive words, "structures, figures, diagrams, formulas, [and so forth.]" See *Lockwood v. American Airlines, Inc.*, 107 F.3d 1565, 1572, 41 U.S.P.Q.2D (BNA) 1961, 1966 (Fed. Cir. 1997).

At the district court, SVI argued that claims in the '448 patent that invoke the term "central distribution computer" are invalid because the specification fails to describe the term in a manner that satisfies the written description requirement. In particular, SVI argued that the specification fails to describe the "central distribution computer" through either words or figures. Messagephone, on the other hand, argued that various figures in the specification adequately define the term. Following trial, the jury found that the claims comply with the written description requirement.

Claim 1 of the '448 patent recites, in pertinent part, a "central distribution computer located at said facility and connected without said switched network telephone system directly to said amenity device for facilitating the offer of a pay per view offering responsive to said billing computer validation. [*18] " Based on the claim language, a satisfactory description of the central distribution computer must comport with two conditions: (1) the central distribution computer must connect directly to the amenity device, and (2) it cannot connect to the amenity device through the switched telephone network system.

Although the term "central distribution computer" does not appear anywhere in the specification, that alone is not fatal because the inventor can use drawings and other descriptive words to describe the term. See *Lockwood*, 107 F.3d at 1572, 41 U.S.P.Q.2D (BNA) at 1966. On appeal, as at trial, Messagephone advances several arguments to explain how the '448 patent specification describes the term "central distribution computer." First, Messagephone contends that the combination of the computer 50 and store and forward switch 48 (collectively "the computer/store-forward switch") constitutes the central distribution computer. In light of Figure 2, *supra*, and the claim language, that argument is untenable. Claim 1 requires that the central distribution computer connect "directly to [the] amenity device" without connecting to the switched telephone network system. As gleaned[*19] from Figure 2, if the computer/store-forward switch operates as a single unit, then it cannot form the central distribution computer, as the term is used in the claims, because that unit connects to the

switching network and then connects to the amenity device. Thus, Messagephone's proffered explanation directly conflicts with the claim language. We therefore hold that no reasonable jury could find that the computer/store-forward switch constitutes the central distribution computer.

Messagephone also argues that Figure 8 of the '448 patent, reproduced below, illustrates the central distribution computer in the form of a store and forward switch connected directly to the amenity.

[SEE FIGURE 8 IN ORIGINAL]

Portions of the specification discussing Figure 8 belie Messagephone's argument. For example, the specification explains that the "co-located amenity 132 allows the store-and-forward switch 20 to interface the amenity 132 through the switched network 22." (emphasis added). Thus, Figure 8 cannot describe the central distribution computer because the claim language requires that the central distribution computer bypass the switched network. Moreover, the specification identifies[*20] Figure 8 as a block diagram of the store and forward switch, and no indication exists that the store and forward switch has any properties of a distribution computer.

Messagephone further argues that Figure 9, provided below, describes how the central distribution computer connects directly to the amenity device. That argument

[SEE FIGURE 9 IN ORIGINAL]

That argument also fails. Figure 9 merely provides a flow chart of the store and forward switch; it does not mention, much less provide any description of, a central distribution computer.

Claim 18 recites a "central distribution computer . . . connected without a public switched network to said amenity location for offering a pay per view offering." The claim also recites a "store and forward switch connected to said central distribution computer and providing a telephone connected to said store and forward switch." This claim language makes clear that the central distribution computer and the store and forward switch are separate components that connect together. Thus, Messagephone's argument that the combination of the computer and the store and forward switch forms the central distribution computer cannot be reconciled[*21] with the language of claim 18 that requires the central distribution computer to be distinct from the store and forward switch.

In sum, because no reasonable jury could find that the '448 specification complies with the written description requirement with regard to the term "central distribution computer," we reverse the district court's denial of SVI's JMOL and hold that claims 1 and 18 of the '448 patent are invalid. n1

n1 Because we hold that claims 1 and 18 of the '448 patent are invalid, we do not reach the claim construction and infringement issues associated with those claims.

CLAIM CONSTRUCTION

On appeal, SVI asserts that the Special Master erroneously construed two limitations in claims 1 and 32 of the '740 patent--the "intelligent prompt" clause and term "amenity identification information." Claim construction is a question of law that we review de novo on appeal. See *Cybor Corp. v. FAS Techs., Inc.*, 138 F.3d 1448, 1456, 46 U.S.P.Q.2D (BNA) 1169, 1174 (Fed. Cir. 1998) (en banc). Proper claim[*22] construction requires analysis of the patent record's intrinsic evidence--the claim language, the written description, and the prosecution history. See *Vitronics Corp. v. Conception, Inc.*, 90 F.3d 1576, 1582-83, 39 U.S.P.Q.2D (BNA) 1573, 1576-77 (Fed. Cir. 1996). Resort to extrinsic evidence for purposes of claim construction is appropriate only if, after a review of the intrinsic evidence, the meaning of a claim term remains ambiguous. See *Key Pharms. v. Hercon Labs. Corp.*, 161 F.3d 709, 716, 48 U.S.P.Q.2D (BNA) 1911, 1917 (Fed. Cir. 1998). n2

n2 When interpreting claims, a special master or a district court should follow this court's precedent and construe claims without recourse to the accused device, or their own personal beliefs of what the law should be.

During prosecution of the '740 patent, the Patent and Trademark Office examiner rejected claims 1 and 32 as obvious over U.S. Patent No. 5,077,607 ("the Johnson patent") in light of U.S. Patent No. 4,700,386. The Johnson patent teaches a[*23] system that allows hotel guests to access amenities through an interactive television located in their hotel rooms. According to the Johnson patent, a guest uses a series of television screen menus to order desired amenities and authorize payment for those amenities through an in-room checkout pro-

cedure. During the checkout procedure, a screen menu displays a summary of the selected amenities and another screen displays the final bill.

In response to the examiner's rejection, the inventors of the '740 patent amended claims 1 and 32 by adding the following "intelligent prompt" clause: "said CDC [i.e., central distribution computer] determining whether a prompt is to be initiated and determining the content of the prompt." Accompanying the claim amendment, the inventors also argued that, in contrast to the Johnson patent, the '740 patent "initiates the prompts when the system determines the user needs help in entering billing or amenity identification information through the telephone."

To determine the meaning of a claim term, a court must analyze arguments and amendments made during the prosecution of a patent application. See *Southwall Tech., Inc. v. Cardinal IG Co.*, 54 F.3d 1570, 1576, 34 U.S.P.Q.2D (BNA) 1673, 1676 (Fed. Cir. 1995).[*24] In the present case, the Special Master construed the "intelligent prompt" clause as requiring "initiative from the system as to the content of at least some prompt." That construction, however, erroneously ignores arguments made during prosecution to distinguish the claimed invention from the Johnson patent. To overcome the Johnson patent, which teaches a system that determines the content of a prompt, the inventors argued that the claimed invention also performs the additional step of determining whether a prompt is necessary. Thus, based on the prosecution history, we hold that the "intelligent prompt" clause requires the central distribution computer to (1) determine if a prompt is necessary to assist a guest in selecting an amenity or providing billing information, and (2) the content of the prompt.

Claims 1 and 32 of the '740 patent also recite a limitation of storing and processing amenity identification information. The '740 patent explains that amenity identification information is generated by a guest's pressing amenity keypads on the room telephone. The patent further explains that amenity identification information refers broadly to a class of amenities, such as movies[*25] or fax services, rather than a specific amenity within that class, such as a particular movie.

The Special Master construed amenity identification information as meaning "credit card information or other data to assist billing." Such a broad construction is not

supported by written description of the '740 patent, which makes clear that a system that provides only one class of amenities, such as movies, does not generate amenity identification information. Under the Special Master's claim construction, however, the term amenity identification information would cover a system that, for example, provides only movies, because the choice of a particular movie would be amenity information that assists billing. Moreover, the Special Master's claim construction is overly broad because it renders the claim term "billing information" redundant, by giving both terms the same meaning. Thus, we reverse the Special Master's claim construction and hold that amenity identification information refers to a class of amenities within a system that offers more than one class.

In sum, because the jury's finding of infringement by SVI and non-infringement by Tharaldson were based on erroneously construed[*26] terms, we vacate those findings and remand for a determination of infringement in accordance with our claim construction. Thus, we also vacate the district court's award of treble damages and attorney fees.

CONCLUSION

Because we hold that the November 7, 1996 assignment did not grant Messagephone the right to sue for infringement before that date, we reverse the district court and limit the recovery of potential damages to infringement that transpired after that date. Also, because we hold that Messagephone failed to provide substantial evidence demonstrating that the '448 patent specification adequately described the term "central distribution computer," we grant SVI's JMOL, vacate the jury's finding that SVI infringed claim 1 of the '448 patent, and vacate the district court's grant of summary judgment that SVI did not infringe claim 18. We further hold that the Special Master misconstrued various terms in claims 1 and 32 of the '740 patent; thus, we vacate the jury's finding of willful infringement by SVI and non-infringement by Tharaldson, and remand for findings in accordance with our claim construction. As a result, we also vacate the district court's award of treble damages[*27] and attorney fees.

COSTS

Each party bears its own costs.